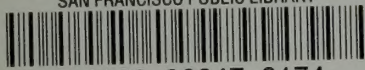


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WEDNESDAY, AUGUST 4, 2004
1:38 P.M.

SENATE RULES COMMITTEE

STATE OF CALIFORNIA

HEARING

STATE CAPITOL

ROOM 113

SACRAMENTO, CALIFORNIA

WEDNESDAY, AUGUST 4, 2004

1:38 P.M.

Reported by:

Evelyn J. Mizak
Shorthand Reporter

3 1223 06647 8174

APPEARANCESMEMBERS PRESENT

SENATOR JOHN BURTON, Chair

SENATOR ROSS JOHNSON, Vice Chair

SENATOR JAMES BRULTE

SENATOR BETTY KARNETTE

SENATOR GLORIA ROMERO

STAFF PRESENT

GREG SCHMIDT, Executive Officer

PAT WEBB, Committee Secretary

NETTIE SABELHAUS, Consultant on Governor's Appointments

SUSIE SWATT, Consultant to SENATOR JOHNSON

CHRIS BURNS, Consultant to SENATOR BRULTE

TIM SHELLEY, Consultant to SENATOR KARNETTE

CARY RUDMAN, Consultant to SENATOR ROMERO

ALSO PRESENT

WALTER ALLEN III, Director
Youth Authority

SENATOR DON PERATA

SENATOR DICK ACKERMAN

SENATOR BOB MARGETT

WILLIAM F. BROWN, JR., First Vice President
California Police Chiefs Association

ROY MABRY, State President
California Association of Black Correctional Workers

CALVIN REMINGTON, President
Chief Probation Officers of California

1 OSCAR BEJARANO, Parliamentarian
2 Chicano Correctional Workers Association

3 ROSS MOORE, Chapter President
4 California Correctional Supervisors Association

5 LESLIE ROGERS
6 Former Parish Priest
7 Retired School Administrator

8 RICHARD L. TATUM, State President
9 California Correctional Supervisors Association

10 ANDREW CRUZ, State President
11 National Latino Peace Officers Association

12 ALBERT ESTRADA, Vice President
13 Mexican American Correctional Association

14 JOHN LOVELL
15 California Narcotics Officers Association
16 California Peace Officers Association

17 MATTHEW L. CATE, Inspector General of the
18 Youth and Adult Correctional Agency

19 THOMAS ERES, State Director and California Adjutant General
20 Military Department

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WALTER ALLEN III
MATTHEW L. CATE
THOMAS ERES
JEROME S. MOSS, Member
California Horse Racing Board

P-R-O-C-E-E-D-I-N-G-S

--ooOoo--

CHAIRMAN BURTON: Walter Allen III, Director of the Youth Authority.

Senator Perata.

SENATOR PERATA: Thank you, Mr. Chair and Members.

It's a distinct honor to be here this afternoon to present Walter Allen III. Walter has been a friend of mine for many years, but more importantly than that, we began together our experiences in the classroom. He was a student of mine in 1968, a long time ago.

MR. ALLEN: A long, long time ago, Senator.

SENATOR PERATA: I am just delighted that he is here today before you. I'm happy to have a student on this side of the law.

[Laughter.]

SENATOR PERATA: Didn't often work out that way.

But Walter is the kind of individual, and you can measure for yourself his credentials in his profession, but he is the kind of individual that for those of us that have children or grandchildren, or brothers and sisters, he is exactly the way you'd want a sibling or a child of yours to be.

He is an honest, caring, compassionate, hard working, straight-shooting guy. He has worked hard. He has worked hard as a public servant his entire life. And if anybody who has had any classroom experience had one person in their high school teaching experience like Walter, it would have made

1 their careers worthwhile.

2 I am so glad that he has chosen to be in our
3 profession, because all of us who are here, whether we are
4 elected, appointed, or in other capacities serving the great
5 State of California, it is an honorable calling, and this man
6 makes it an honorable profession.

7 So, I encourage your confirmation here today.
8 And I'm happy to have an opportunity to briefly present him.

9 Thank you.

10 CHAIRMAN BURTON: Thank you, Senator.

11 Senator Ackerman.

12 SENATOR ACKERMAN: Thank you, Mr. Chairman and
13 Members.

14 I concur in everything that Senator Perata has
15 said. I think he'd be an excellent Director.

16 I've known Walt for many, many years, and he's
17 done an excellent job professionally, socially, and all his
18 cultural activities.

19 The only thing that was not mentioned in his bio
20 was that Senator Perata was his high school teacher, and I think
21 he probably left that out on purpose.

22 Anyway, I recommend your concurrence.

23 CHAIRMAN BURTON: Senator Margett.

24 SENATOR MARGETT: Thank you, Senator Burton.

25 I, too, am here to endorse the candidacy of
26 Walter Allen to this post.

27 You know, he not only has been a good friend of
28 mine for many years, but he's also served very well the

1 community. He has been Mayor of the City of Covina. He has
2 served on that City Council.

3 He's a brave man. Brave not only not in the
4 sense that he is here today confronting our committee, but by
5 the same token has really earned the right of being brave
6 because he has -- and maybe he wants to elaborate on that; it's
7 kind of tough for him to do that -- but really he had a gun
8 pointed to him and his life threatened in his job. And you
9 know, he still comes back.

10 Loves the community; loves youth; loves his
11 friends. And I'm here to endorse his candidacy also.

12 CHAIRMAN BURTON: Thank you, Senator.

13 SENATOR MARGETT: If it means anything to you.

14 [Laughter.]

15 CHAIRMAN BURTON: Thank you very much, Senators.

16 MR. ALLEN: Thank you. Senators.

17 Good afternoon, Mr. Chair and Committee Members.

18 On December 9, 2003, I was honored when Governor
19 Schwarzenegger appointed me as the new Director of the
20 California Youth Authority. And it's also an honor to come
21 before you all today.

22 Since the time of my appointment, I've worked
23 towards the implementation of my vision in the Department. That
24 vision is simple: Return the Department to its former status as
25 a national model for effective treatment of delinquent and
26 troubled youth in a therapeutic environment.

27 As you can imagine, the necessary changes that
28 will take us down that difficult road will be awesome. The

1 Youth Authority inherited by the new administration is poorly
2 equipped to face the numerous challenges presented by the wards
3 we currently serve.

4 With the imposition of the sliding scale in the
5 mid-'90s by the California State Legislature, and the subsequent
6 increase in the number of county detention facilities, our
7 population now primarily consists of some of the most disturbed
8 and violent, often mentally plagued, youth in the state. They
9 are also entrenched in gang behavior.

10 In addition, our existing facilities are
11 outdated, our programs fall short of national standards, and our
12 reputation is tainted, and we have limited resources.

13 Given these facts, the transformation of the
14 California Youth Authority will be going down a challenging
15 path. Fortunately, the Department has already started down the
16 road to recovery.

17 As you may know, the Department is currently
18 working with the Prison Law Office to finalize the settlement
19 agreement for Allen versus Farrell -- I'm sorry -- Farrell
20 versus Allen, a taxpayer lawsuit which pointed out many
21 deficiencies in our Department. While the settlement is not
22 quite complete, we can expect that in the near future the
23 details will be finalized, and I will have the opportunity to
24 move on the implementation of the remedial plans.

25 In the meantime, I have enhanced a number of
26 reforms that I felt were necessary now not later. For example,
27 the secure program areas, better known as SPAs or cages, were
28 removed at my direction.

1 In a joint memorandum by Secretary Hickman and I,
2 I ordered that the code of silence would no longer be tolerated.

3 I hired outside consultants to deal with the
4 violence issue by developing a new Use of Force Policy in the
5 Department, and we just completed training throughout the staff
6 for all our staff.

7 In addition, the archaic Tamarack Living Lodge at
8 Preston Youth Correctional Facility has been closed at my
9 direction.

10 Critical changes in management and leadership
11 have been made.

12 I've opened the doors to community organizations,
13 and recently I established a new ward-family counsel program at
14 all of our institutions which will give parents and guardians of
15 our youth a voice in the Department and keep them up to date on
16 the issues occurring in our facilities.

17 Although we've made some progress over the past
18 six months, it's important to remember that many of the critical
19 reforms that we need to put in place will be long-term projects.
20 For example, one of my top priorities, and it also was
21 released -- it was also indicated in the recent released
22 Independent Review Panel and also supported -- is reducing the
23 size of our living units in population to the national standard
24 of 25. In California, many of current living units house 50 to
25 75 wards, making adequate programming and treatment virtually
26 impossible.

27 Last week, I elected to visit several juvenile
28 correctional programs in the States of Texas and Missouri. Both

1 these states limit the number of wards to living unit sizes of
2 25 or less. And I can assure you, smaller living units are
3 really the key to making a difference in how we provide
4 rehabilitation and treatment services.

5 Another thing that I have observed in each of
6 these states was the availability of treatment and recreational
7 time. In these states, wards simply spend more time out of
8 their rooms recreating and receiving treatment.

9 While we are currently working towards these
10 changes, this type of comprehensive reform is not going to
11 happen over night. It will require modification to resource
12 allocation, culture, and practices that have been in the CYA for
13 decades and have plagued this operation. There's no question in
14 anyone's mind that reform is urgently needed, but we need to
15 move forward in a direct, measured, and methodical manner with
16 evidence-based solutions to complex problems that we are
17 facing.

18 I can assure you that I'm doing everything
19 possible to expedite the changes, but I will need the help from
20 the administration, the Legislature, and the community. I am
21 confident that working together, we can transform the Department
22 into something much better than it is today.

23 Ladies and gentlemen and Committee Members, my
24 son is in the audience today. He's sitting right here on the
25 corner here.

26 And I've got to tell you that I am proud of the
27 fact that he's been a model citizen. And when he was growing
28 up, he was a wonderful son.

1 I can tell you that however, if he had gone down
2 the wrong path, and had done the wrong thing, and had palled up
3 with people that were doing the wrong thing, and had wound up in
4 the California Youth Authority, I would want him to receive the
5 right treatment. I would want him to be safe. And I'd want him
6 to come home to my community a productive citizen.

7 We owe that much to every parent in California.
8 We have to develop a better way of doing business in the CYA to
9 effectively rehabilitate rather than incarcerate.

10 I'm not going to make any excuses for the
11 deficiencies of the Department. They exist. I've identified
12 them, and we're working to address them.

13 I have been told that in the past, the Department
14 made many promises, and these promises were not kept for one
15 reason or another. As a result, the CYA was known as a
16 department that didn't follow through on its commitments and had
17 less than a stellar reputation.

18 My goal as the new Director is to provide clear
19 expectations to what needs to be accomplished, and hold everyone
20 responsible in the Department, and hold them accountable to make
21 sure that those things that we are tasked with are completed.

22 In recent months the Youth Authority has received
23 a lot of tough criticisms and negative press regarding the
24 operations. And I can tell you honestly that a lot of it was
25 deserved.

26 But I'm also here to tell you for the record that
27 with the exception of a few bad actors and some managerial
28 problems, the Youth Authority has a very dedicated, hard-working

1 group of employees that want to make the Department and the
2 youth we treat succeed. Everyday they come to work. They work
3 hard dealing with some of the most difficult wards in the state,
4 and many have told me personally that they are very pleased that
5 we are returning to a therapeutic community.

6 They have also told me that they're committed to
7 helping me make the necessary reforms in the Youth Authority to
8 bring it back into the 21st Century as a therapeutic environment
9 for our most troubled youth.

10 For a quick moment before I close, I want to
11 recognize my family members. I mentioned my son David; my wife
12 in the red, Pat; my Dad, Walter Allen; my Aunt Dorothy Strane;
13 and last but not least, my Mom, Gladys Allen. Without them,
14 without them supporting me, and without them giving me their
15 love, I would not be sitting in this chair today.

16 Thank you, Senator. I'm open to any questions
17 that you all may have.

18 CHAIRMAN BURTON: What do you figure on trying to
19 fix first? I mean, you have, like a kid in a candy store so to
20 speak, what's the first thing you're going to try to focus on?

21 MR. ALLEN: Senator, the first thing I want to do
22 is make sure that those remedial plans get on line right away so
23 we can start making the necessary reforms in education,
24 conditions of confinement, medical services. Everything has to
25 be done simultaneously.

26 The biggest thing that we need in the Youth
27 Authority right now is everything. But the number one
28 foundation, the platform we need is a classification system, a

1 valid classification system, so we can take those -- take the
2 risk assessment tool, put them in proper living units, and
3 reduce living unit sizes, 25 or less, providing them more
4 treatment time.

5 And I went to Texas, I went to Missouri. I liked
6 what they were doing. What I want to do here, and we're already
7 going to start working on that, get them out of their rooms
8 most of the day. In Texas and Missouri, they get them up at
9 5:30 in the morning, and they run them until 9:30 at night. And
10 they're doing recreation; they're doing education; they're doing
11 treatment services.

12 We need to get back to that. The Youth Authority
13 used to do it.

14 But that's just a few items, Senator, of concern
15 I'd like to get going.

16 CHAIRMAN BURTON: What's the status of the
17 lawsuit?

18 MR. ALLEN: The status of the lawsuit is that
19 everything's done. We're just waiting on agreeing on a Special
20 Master.

21 CHAIRMAN BURTON: You all are eliminating the
22 23-hour lockup?

23 MR. ALLEN: You bet; you bet.

24 CHAIRMAN BURTON: Was that for people that were
25 really acting up, or was that because the people who ran the
26 Youth Authority were so lazy, it's the easiest thing to do?

27 MR. ALLEN: Senator, from my perspective, some
28 time ago -- this is not a policy; 23 and one is not a policy.

1 We don't know why it happened, but it happened over a period of
2 years, and there are a number of reasons. We may have had some
3 -- we had some personnel that don't want the face-to-face
4 contact because that's the easiest way to deal with them. The
5 other thing is, there wasn't adequate program to provide them.

6 As of today, you're not going to find -- as of
7 today, you're not going to find anyone that's going to be locked
8 up for 23 and one.

9 So what we're doing, we have a work group dealing
10 with restrictive programs as we speak. What we want to do is,
11 if a youth is fighting, or being disruptive, or harm themselves or
12 someone else, they may get confined, but they're going to be out
13 of that room as much as possible. And one hour a day, two hours
14 a day, three hours a day is not going to be enough. They're
15 going to have to be out a lot longer than that.

16 CHAIRMAN BURTON: In the mental health and
17 substance abuse area, what are your plans? Do you have specific
18 plans to improve both the substance abuse, which I guess in
19 theory can be easy with 12-Step programs and trying to make sure
20 nobody's bringing drugs in --

21 MR. ALLEN: Yes, right.

22 CHAIRMAN BURTON: -- but also the mental health
23 aspect. I would assume a lot of these young people, or a fair
24 amount of them, are rather emotionally disturbed, I would guess?

25 MR. ALLEN: Yes, Senator.

26 Starting with substance abuse, what I've done, we
27 just started this January. Actually we started just April with
28 the federal program that deals with substance abuse treatment,

1 and I've got Phoenix House doing that with us.

2 At this point in time it's not enough. I want
3 more Phoenix House treatment personnel in, but that's what we're
4 doing.

5 We also have a state-run program for parole
6 violators.

7 So, those are the two formal programs. One of
8 them, the federal program with Phoenix House, just kicked off
9 within the last six months.

10 By the way, I'm talking with Mimi over at Delancy
11 Street. She and I are going to talk about not only the
12 substance abuse training, but also re-entry. The re-entry is
13 the big concern, so that's one of the things.

14 With mental health, that deals with -- we do a
15 great job of assessing and screening, but it doesn't follow
16 anyone anywhere. So, that whole program is changing. I'm in
17 the process of hiring a new Medical Director, which we've never
18 had, and that person's reporting directly to my office, and that
19 person's going to oversee that program.

20 CHAIRMAN BURTON: On the gang violence, and I
21 can't remember if this was an issue raised by Senator Romero and
22 myself, but usually the best people to try to intervene in gang
23 violence things are probably the worst members of the gangs, if
24 they finally figure out that it's better, you know, to stop
25 people from killing or beating up each other in prison, at least
26 never do it or maybe wait till they get out, whichever.

27 I think the process was if somebody came forth,
28 and I guess it was in an actual prison, you know, I'm in this

1 gang, and I really want to get out. And if you really talked to
2 Charley Jones over here, and I think he could provide leadership
3 to do that, so both the guy who goes to the warden and Charley
4 Jones ends up in Pelican Bay or something.

5 I want to encourage, and I know I met the young
6 man who brokered the deal down in L.A. Between the Bloods and
7 Crypts that still -- at least the peace is still there between
8 the organizations.

9 If somebody comes forth and wants to help, I
10 mean, the fact that they're almost like violating the Fifth
11 Amendment, because there's kind of self-incrimination. It's
12 like the best people that can deal with drug addicts are
13 recovering drug addicts, and the best people dealing with drunks
14 are recovering drunks. And the best people that can maybe help
15 through the gang problems are people that, you know, actually
16 either had been in the gangs in the street, they came in, and
17 they're either not necessarily physically coerced, but peer
18 pressure, and still hanging with the boys from the hood, so to
19 speak.

20 How can you deal with that problem? I think it'd
21 be something to be encouraged. I think the only people that can
22 encourage gang members are really former gang members. Pretty
23 tough for some priest or do-gooder to come in and tell them how
24 it is when they don't know how it was.

25 MR. ALLEN: Senator, that's close to my heart
26 because that's been a real big problem, one of the huge problems
27 in the California Youth Authority.

28 One of the guys that I admire is Father Boyle

1 down in East L.A. And I'm looking at using community-based
2 organization leadership in this particular area to come into our
3 institutions to help us.

4 We have not -- this was a shock to me when I came
5 here, Senator. We never had a gang management policy of any
6 kind, so we just adopted one. I'm in the process of signing it
7 within the next two weeks. And what that policy does, it
8 actually creates a gang intervention program, which was
9 virtually nonexistent. We have gang coordinators.

10 One of the things we want to do is tie in with
11 the law enforcement community that has a real good idea of good
12 gang prevention techniques, as well as the community-based
13 organizations.

14 To me, you're absolutely right. I'm in agreement
15 with you, and that's what we're going to be looking at, bringing
16 people that qualify. Hopefully, I don't think there's going to
17 be any problem qualifying some of those retired gang members, if
18 you will, to come in, because they are the best role models.
19 They've been down that road. They can help us with some of the
20 rehabilitation effort with the gang intervention.

21 CHAIRMAN BURTON: I have one last question that
22 I'll ask, because I guess at least two people that wrote in
23 opposition to you, where they're commenting on something that I
24 would just find absolutely unforgiveable: Lack of attention to
25 detail sitting in Council meeting.

26 [Laughter.]

27 CHAIRMAN BURTON: Anyway, my brother would never
28 let me do anything because I didn't pay attention to detail.

1 But you want to get that out of the way?

2 MR. ALLEN: Yes, Senator.

3 That was basically, any elected official, as I'm
4 sure you know, there are people that like you and there are
5 people that don't like you.

6 The people that wrote in don't like me, and they
7 have not liked me since the day I got elected.

8 CHAIRMAN BURTON: That's a detail you paid
9 attention to.

10 [Laughter.]

11 MR. ALLEN: Yes.

12 CHAIRMAN BURTON: Senator Johnson.

13 SENATOR JOHNSON: No questions.

14 CHAIRMAN BURTON: Senator Romero.

15 SENATOR ROMERO: Thank you. I have a few
16 questions.

17 I'm going to start off by saying I've known
18 Mr. Allen for some years now. He actually was, when I first met
19 you, the Mayor of the City of Covina, which is in the 24th
20 Senate District. We've had opportunities to work together.

21 I was quite surprised when I, of course, learned
22 that you had been appointed Director of the CYA, and of course I
23 called you and said, "Good luck. We've got a lot to talk
24 about."

25 Let me start by giving the positives against you.
26 I applaud your quick action in removing the cages. There's
27 absolutely no room for cages in a facility that's supposed to
28 rehabilitate. I think you recognized that, and I give you

1 support on that.

2 Certainly shutting down Tamarack, again kudos to
3 you as well.

4 But I have a lot of concerns. First of all, you
5 talked about the lockdowns. I visited Stark, as you know, and
6 of course it was good to see you there Friday morning. We had
7 Senate Rules staff there, the Governor's folks sent a staff
8 member as well, and we talked about the lockdowns.

9 I want to ask about this, because you've
10 indicated it's not policy, it's not in statute.

11 MR. ALLEN: Yes.

12 SENATOR ROMERO: Where did it come from, and when
13 are we going to certainly cease the lockdowns?

14 Let me tell you what I saw at Stark, and this was
15 Friday, last Friday, just a few days ago. We saw, of course,
16 youth locked up for 23 hours. This is in a cell that's the
17 equivalent of six by eight feet. They're in there for 23 hours
18 a day; they're removed for one hour.

19 There is a constant blue light that shines night
20 and day. And when I asked why does this blue light shine --
21 it's not just an ordinary blue light. You're not in K-Mart.
22 This is a very strange blue depressing mood that's filtered
23 throughout this cell -- they tell me because it facilitates the
24 guard's availability to look inside the sliver of a window doing
25 night checks, to make sure they're in there.

26 Now, I don't know where they're going to go when
27 they've been locked down for 23 hours in a six by eight cage.
28 But the blue light, I think, would drive me crazy.

1 On Friday, we asked about who was locked up, and
2 we learned that on average, I think it's about 60 days that
3 somebody's locked up at a time. But there was one ward who had
4 been locked up for 200 days straight; 200 days.

5 We asked to talk to him. We went there. I'll
6 tell you, when we first got to his sliver of a window and said
7 we wanted to speak to him, the first thing -- and it's the
8 psychologist in me, perhaps -- but he recoiled, I think, at
9 seeing a human being through the sliver of the window.

10 He didn't want to talk at first, and then we
11 started talking a little bit more. And he finally began to talk
12 a little bit about what it felt like to be in this cage 23 hours
13 a day, with the blue light, on a steel cot, sliver of a mattress
14 for 200 days straight.

15 If it's not policy -- and the other thing, too,
16 because I see Secretary Hickman here -- he did indicate on
17 June 23rd that the lockdowns for this 23 hours a day was not
18 acceptable.

19 It's now August 4th. If it's not policy, if it's
20 not regulation, we didn't pass a bill, why can't that end?

21 I want to hear not it's going to end, but it's
22 been a long time why hasn't it ended?

23 Two hundred days straight to me is amazing; 60
24 days straight is amazing, given the national averages.

25 Help me understand what's going on, and when are
26 we going to see an end to this 23-1 lockdown?

27 MR. ALLEN: Well, the 23-and-1 ended today. It
28 ended today.

1 SENATOR ROMERO: Just in time for confirmation.

2 MR. ALLEN: No, it was going to end as quickly as
3 possible. It just happens that that happened today.

4 The problem that we determined with the few
5 individuals that we have locked up for a number of days like
6 that -- and it's not the lockup that I'm concerned with. It's
7 the amount of time that they're in their room. They've got to be
8 out -- is dealing with the court hold issue with the DAs'
9 offices. We're dealing with every DA in California that has an
10 institution, with them individually, to address the court hold
11 issue. That's been the problem.

12 So, we're rectifying that. My Chief Deputy
13 Director, Silvia Garcia, is directly involved with dealing with
14 the restricted programing issue. We hope to have a new policy
15 on line to deal with that right away, but that is a concern.

16 But the 23-and-1 is done. You're not going to
17 see anyone locked up 23-and-1.

18 SENATOR ROMERO: So, if I go back to Stark
19 tomorrow, the individual -- I think he was 19 years old, who'd
20 been there for 200 days straight -- where is he going to be when
21 I go back to Stark tomorrow?

22 MR. ALLEN: Senator, he's probably going to be in
23 his room, but he's going to be taken out a number of hours
24 during the day.

25 I will tell you this. If I found that an
26 individual in my department was still 23-and-1, somebody would
27 have a real problem.

28 CHAIRMAN BURTON: So, there's no 23-and-1. How

1 about 22-and-2, 21-and-3? I don't understand.

2 I mean, I think that we'd like to have a formula,
3 rather than to say that there's no more 23-and-1, because 22-1/2
4 and 1-1/2.

5 But the other thing is, why do they have to be in
6 basically solitary confinement or in a room? They could have
7 bars; they could have chicken wire; they could have whatever,
8 but it has some daylight or light in it? Why do they have to be
9 in something, locked in with a small slit and a blue light?

10 MR. ALLEN: And I'm in agreement with you,
11 Senator. This has happened in the past.

12 Basically, there are a number of reasons. One of
13 them is that services aren't available, staff's not available.
14 That's unexcusable. That's not going to be the case.

15 CHAIRMAN BURTON: You don't need services and
16 staff to put in bars instead of a door with a small slit.
17 Probably you could contract out for that one.

18 MR. ALLEN: Yes.

19 CHAIRMAN BURTON: But leaving the 23-1 aside, and
20 whether it gets into 18-6, whatever, I mean, it's like treating
21 them like animals or something, or Stroud, you know, the Birdman
22 of Alcatraz.

23 They can have bars so they can't get out. It's
24 like Senator Romero said, they have that light so they can see
25 they didn't get out. I mean, they didn't have Houdini in there.

26 It just seems to be barbaric.

27 MR. ALLEN: Yes, I'm in agreement with you.

28 SENATOR ROMERO: It defies rehabilitation.

1 MR. ALLEN: I have to tell you Senators that this
2 had been going on for years, and there are a number of things
3 that have been going on for well over 20 years.

4 And I'm here to tell you that we're going to
5 change the formula. I shouldn't say formula. We're going to
6 change the way of doing business.

7 As I indicated, we're being very aggressive about
8 the conditions of confinement. I've got Barry Krisberg.
9 Dr. Krisberg is working directly with me on this particular
10 issue.

11 When you make the change, you have to make sure
12 that you're protecting the other wards. So the question is, is
13 getting them out of the rooms. They're still away from the
14 wards that they've been harming, but they're out of their rooms,
15 and they're programing, they're doing recreation and the like.

16 So, there are a lot of things we're going to do
17 as a part of the new policies.

18 CHAIRMAN BURTON: You still don't need them
19 locked in the dark.

20 SENATOR ROMERO: Right.

21 CHAIRMAN BURTON: You could have bars this far
22 apart like venetian blinds that they could never get through,
23 they can't harm a ward.

24 But I mean, you treat somebody like an animal,
25 they're going to come out an animal.

26 And I really appreciate everything you've said,
27 the things that you're going to do. You've been in awhile. The
28 Secretary has been in awhile. You know 23-1 could have been

1 ended like that. Maybe it takes a little longer to put in bars
2 instead of a door.

3 But it's shame on us for allowing all this stuff
4 to happen under Senator Presley, and under Harper, and under
5 everybody else, and under the Davis administration, and the
6 Wilson administration, and everyone else.

7 And I truly believe that this Governor, of all
8 the governors I've been under, is the first one that's really
9 got the concept you have, as you discussed your son, that we
10 want them better when they come out than they are when they go
11 in. I think all of us share that one thing. We've got hope
12 that this Governor feels that way, believes that way, and
13 dollars available to give you all the support that he has.

14 We can't wait. I mean, a kid locked in like that
15 has got to come out like who knows what. The first time he sees
16 a normal person that's not a guard, he shies away because, I
17 guess, every other human they see probably doesn't --

18 SENATOR ROMERO: Literally. I think it was,
19 "What are you?"

20 And again, everything that Senator Burton says,
21 ditto on that.

22 But again, it's not just the 23-1. It's really
23 the concept.

24 Help me understand what this formula should be,
25 and again, should I go back to Stark tomorrow, what I will find
26 The Secretary has said it's inexcusable. You're saying it's
27 over.

28 What I want to find, because truly the future of

1 the California Youth Authority is at stake right now. I'm one
2 that has said, "Blow it up. Get rid of it." As much as I like
3 you, I'd love to see you out of a job on this issue. We'll find
4 something else perhaps. That's what I want to see, so that we
5 get something concrete, besides "Yes, we agree, Senator. It's a
6 problem."

7 I want to see truly how soon can you give that to
8 us, this is the plan to begin to treat wards that we have,
9 minors, as human beings that have done something that, for
10 whatever reason, they've done it; they're in our custody, our
11 care, but they should not be treated like animals that I think
12 those lockup units do.

13 MR. ALLEN: Again, I wouldn't want my son in that
14 type of situation.

15 So, we're working real hard to deal with that,
16 Senator. The remedial plans drive it, but we're not waiting for
17 the remedial plans to come on line. We're dealing with it now.

18 SENATOR ROMERO: As far as the formula, are you
19 working on that?

20 MR. ALLEN: What we'd like to do before -- before
21 the remedial plan gets on line, three hours maybe more. I can't
22 give you a definite figure right now. It'd be impossible for me
23 to do that.

24 SENATOR ROMERO: Let me ask with respect to
25 education. That's another thing. When they're out of the room,
26 and other wards as well, too, they're supposed to get 240
27 minutes of institution per day.

28 Again, when I was at Stark -- we just so happened

1 to pick Stark that day -- 7 of the 17 academic classes
2 cancelled.

3 MR. ALLEN: Yes.

4 SENATOR ROMERO: And 7 out of 17, that's an
5 incredible amount. So the youth then, through no fault of their
6 own, because the teacher didn't show up, or the teacher was
7 sick, or the teacher couldn't be recruited for who knows how
8 long, that youth is sitting there, again, either in their room,
9 or looking at a piece of paper that somebody passes off as
10 education.

11 That's unacceptable, 7 out of 17. You can
12 imagine in the state, if that percentage of teachers just said,
13 "Not coming in today," I think there'd be a little bit of an
14 uproar.

15 What are you doing to address not only Stark,
16 because I kind of think this is reflective of the system
17 overall, not just Stark.

18 MR. ALLEN: It's a statewide problem.

19 SENATOR ROMERO: So help me understand what are
20 we doing in education? The cages are gone. Bravo to you and
21 your leadership.

22 But what are we doing to comply, 240 minutes?
23 And even 240 minutes is not a whole lot of time. But 240
24 minutes is not being met at least in 7 of the 17 at Stark on a
25 Friday, on a typical Friday.

26 MR. ALLEN: Well, Senator, this has been a
27 problem for a number of years, and this is what we're doing.
28 Here again, I'm doing it now. I'm not waiting for the remedial

1 plans to kick in.

2 We have 27 vacancies of teachers right now, and
3 that's not including a number of substitute teacher vacancies.
4 What we're doing, we just brought someone, one of our employees
5 that's a retired annuitant, whose sole purpose is recruitment.
6 That's not been done. We're going to do some aggressive
7 recruitment throughout the State of California to beef up our
8 teaching staff.

9 The main reason why there is a large percentage
10 of class closing, we have absences, we have vacations, we have
11 teachers calling in sick. And we've had a hard time in the past
12 really aggressively recruiting teachers.

13 And I'll give you an example of another problem.
14 There's a compensation issue. Special Ed teachers, the regular
15 public school districts are having difficulty getting Special Ed
16 teachers, but we pay 30 percent lower for Special Ed teachers in
17 the Youth Authority than in private school districts and public
18 school districts. So, those are things that we'll deal with DPA
19 on.

20 But in the meantime, the most sound, immediate
21 way to deal with it is hard-line recruiting, really aggressive
22 recruiting. And that's how we're going to handle that, that
23 particular problem.

24 SENATOR ROMERO: The annual cost for a ward to be
25 locked up in any of the CYAs right now is about \$80,000 a year.

26 I was stunned when you saw the statistic for
27 females in the CYA. We only have one institution, that's
28 Ventura, about 214 females. The average cost for a female ward

1 is \$140,000 a year.

2 Break that cost down for me. That is just
3 incredible.

4 MR. ALLEN: Well, I don't have figures for the
5 females right in front of me right now, Senator, I can tell you
6 what.

7 We provide tremendous treatment services, much
8 more treatment services, much more staff, to the female
9 population because they have special needs. And we want to do
10 that.

11 And the other thing is, when you have more staff,
12 it costs more.

13 When I was in Missouri, you know, the cost of an
14 employee is far less than it is here, but they actually paid
15 more for treatment services. So, we wanted -- I have to tell
16 you this and be honest with you, Senator.

17 The female population deserves more expenditures
18 because we want to provide them with higher level treatment.
19 Everybody deserves treatment, but we really want to drive
20 treatment into that population because, for instance, I'll give
21 you an example.

22 Mental illness issues in the female population
23 that we have right now is much more higher than it is in the
24 male population. So there are issues that we have to deal with,
25 with medical staff and treatment staff, that are unique to the
26 female population.

27 SENATOR ROMERO: So it's largely with respect to
28 mental health services, reproductive health services?

1 MR. ALLEN: Yes, that's provided as well, OB/GYN.

2 SENATOR ROMERO: Let me ask you, when we were at
3 Stark on Friday, we met with some of the youthful offenders in
4 the Youthful Offender Program who had been moved from Tehachapi
5 to CYA. At that time we thought, great victory; they're out of
6 the big boys' area; they should be here.

7 We talked to some 16-year-olds and 17-year-olds
8 on Friday. We were surprised, and I think I can speak for
9 Nettie as well because we discussed it. We were really
10 surprised when we sat with them, and these 16, 17-year-olds were
11 telling us, "You know what? We think we were treated better at
12 Tehachapi."

13 They said this to us on Friday. They felt that
14 they had been treated -- they were treated better at Tehachapi
15 for a number of reasons. Number one, visitation.

16 Of course, we've seen shut down of visitation
17 throughout the state. That's one that I think is a mistake at
18 CDC and CYA level.

19 But I don't understand why they are limited. At
20 Stark, they're limited to once a week, a Saturday morning, 8:00
21 to 10:00 a.m. only; immediate family only.

22 You have some of your extended family, an aunt I
23 think you mentioned.

24 A lot of these kids don't have a mother who can
25 get to them. Maybe they have a grandparent. Maybe they have an
26 aunt or an uncle. They said, "We're cut off because the only
27 people we can see from 8:00 to 10:00 a.m. on a Saturday morning,
28 once a week, is the immediate family." They said, "At

1 Tehachapi, you know what? We can see extended family." In
2 fact, the visitation is for as long as until the room crowds,
3 and then people get kicked out.

4 These are 16 and 17-year-olds, and they're
5 telling us, contrary to what we thought we did for the better,
6 they felt they were treated better at Tehachapi.

7 They also said they felt they had more polite
8 staff at Tehachapi. What do you make of that?

9 MR. ALLEN: Senator, I'm smiling because
10 everything you're bringing up, I'm dealing with.

11 We have a ward group again that we're developing
12 a new visitation policy. When I came on board, we found at
13 every institution, all of our eight institutions had different
14 visitation policies. So we're doing a comprehensive rework of
15 that.

16 When I was in Texas and Missouri, they only meet
17 with the parents or the relatives two hours a week, but we
18 actually meet longer than that in the Youth Authority.

19 But it's a real screwy system in terms of how the
20 visitation is done in each of the institutions. So, we're
21 revamping that.

22 And as we talked about, we talked about canteen,
23 and packages, and books. All of those things we're dealing
24 with.

25 SENATOR ROMERO: So you are coming up with a new
26 visitation --

27 MR. ALLEN: Absolutely.

28 SENATOR ROMERO: -- that shouldn't punish

1 teenagers a bit more than we have for adult offenders in
2 California.

3 MR. ALLEN: Right. We feel that if CDC -- I
4 mean, if our process for relatives and family members is more
5 restrictive -- I believe in family reunification. And it starts
6 before they are released. And there must be a direct connect
7 with the family, not only during visitation, but during other
8 activities at the facility. So I'm right on board with you on
9 that one.

10 SENATOR ROMERO: Then the use of dogs, the canine
11 units are gone?

12 MR. ALLEN: The dogs for crowd control are gone.
13 We're looking at using them just for narcotic detection. That's
14 the only way they'd be used. That's it.

15 SENATOR ROMERO: Let me just ask this final
16 question.

17 We've seen the decline of the CYA population over
18 the years. Who should be sent to the CYA? What's the core
19 population?

20 I think overall, as we talk about blowing up
21 boxes and making reforms, and working more with local
22 governments and counties, there's a possibility that it'll
23 shrink that core population, as I would very much like to see.

24 Who do you believe should remain? As we go
25 forward, and if we keep the CYA, who should be in the CYA?

26 MR. ALLEN: I think our mission should stay the
27 same, that we take really troubled youth that have committed
28 violent acts, that have been in trouble repetitively, that the

1 counties have no resources for, or they've given up on, those
2 are the populations we should still target.

3 With the reduction in the population, that's
4 actually a good thing for us because then, hopefully, my vision
5 is the 25-bed living units. That's what my goal is. So the
6 smaller the population right now, the better we can move towards
7 achieving that goal.

8 SENATOR ROMERO: All right. No more questions.

9 CHAIRMAN BURTON: One question.

10 The living units, you're going to build more or
11 let more kids out? If you're chopping them in half, you'll save
12 us about 52 by going to 25.

13 MR. ALLEN: What we'd like to do in the interim
14 is look at using existing living units. And when the population
15 declines, putting them in a more -- how shall I say? Looking at
16 Texas and Missouri, it's a more cordial environment.

17 CHAIRMAN BURTON: I am absolutely appalled that
18 California would look to the State of Texas -- and I'm
19 serious -- penal operation for improvement in our own. The law,
20 if you're a 12-year-old, you could get life for two marijuana
21 cigarettes. It just tells you how bad our thing is that we're
22 looking to Texas.

23 SENATOR ROMERO: The Duke Commission, though,
24 comes up with the Civilian Oversight Commission, and that's
25 Texas.

26 CHAIRMAN BURTON: So, if you have halve it, where
27 are you going to put the other half? Idle curiosity.

28 MR. ALLEN: Well, what I'd like to do, Senator,

1 is look at modifying what we have right now, and then working
2 with the Governor's Office and Secretary Hickman to see what
3 other aspects or ways we can go to have a conducive therapeutic
4 environment existing in the Youth Authority.

5 CHAIRMAN BURTON: I'm just kind of curious. We
6 want to reduce from 51, 52, 53 to 25. Forget the therapeutic,
7 forget 23-1.

8 Where are you going to put the other 26? Do you
9 have space for it or what.

10 MR. ALLEN: Yeah. At this time, we have living
11 units, as the population reduces, we have a lot of dorm-style
12 living units, which is what I'd like to move towards for all of
13 our youth that we have, rather than the single rooms.

14 CHAIRMAN BURTON: Move them to dorms.

15 MR. ALLEN: Yes.

16 SENATOR ROMERO: If I can say, too, I think when
17 we heard them speak on Friday, I think a lot of them would
18 prefer that because they do, in addition to those -- there's a
19 sense of isolation, so many of them say, "Look, go ahead and put
20 us together. At least we have some human contact."

21 MR. ALLEN: Yes. Socialization for the youthful
22 offenders --

23 CHAIRMAN BURTON: Like Army barracks, so to
24 speak?

25 MR. ALLEN: -- is a must. Yes.

26 CHAIRMAN BURTON: Make sure that they will all
27 get along.

28 Senator Brulte.

1 SENATOR BRULTE: Who in the Governor's office did
2 you piss off? I mean, of all the appointments in state
3 government, you took this one. You must have pissed somebody
4 off. You obviously weren't paying attention.

5 [Laughter.]

6 CHAIRMAN BURTON: That was a rhetorical
7 question.

8 SENATOR BRULTE: Move confirmation.

9 CHAIRMAN BURTON: Senator Karnette.

10 SENATOR KARNETTE: I'm very interested in
11 education. This disturbs me, what you said about the difficulty
12 with recruiting teachers.

13 Can you think of any ways we might be able to
14 respond is to that? I talked to you earlier about working out
15 something where we could use retired teachers and let them keep
16 their retirement and go teach. This is just an idea.

17 CHAIRMAN BURTON: Took the words out of my mouth.

18 SENATOR KARNETTE: But they can't give up their
19 retirement, though. They'll never do it.

20 But we really need to look at that. That's
21 serious because I think education will prevents recidivism. The
22 people can learn something and get out and find a job.

23 I really, as a Legislator, if there's anything I
24 can do to help that issue, because I think getting teachers in
25 classrooms, and getting young people into some type of classes
26 would help them more than anything else, and getting them out of
27 isolation. I think with those two things, we might not have as
28 many as people there if the ones that get out, stay out. That

1 would help.

2 MR. ALLEN: Senator, excellent recommendation.
3 As we talked, I noted that. We're going to check on that.

4 The Distance Learning Program that we obtained
5 federal funding for, that goes on line in October as well. And
6 we're looking forward to that. It's state-of-the-art, and it's
7 been very successful in public school districts throughout the
8 country.

9 SENATOR BRULTE: Are the teachers in PERS or
10 STRS?

11 MR. ALLEN: CSEA.

12 CHAIRMAN BURTON: They would be PERS
13 employees.

14 SENATOR BRULTE: You wouldn't lose the STRS
15 retirement if you were teaching under PERS.

16 SENATOR KARNETTE: Good thinking.

17 CHAIRMAN BURTON: Depending what the law is, you
18 might not.

19 The other thing is, I seem to recollect that the
20 Governor during the discussions with the CSEA on the pension
21 obligation bonds talked about it. I know he talked about
22 something for prison nurses, and I think he actually talked
23 about some increases for at least the Department of Corrections
24 teachers, which I would assume would include the Youth
25 Authority.

26 One thing that I'd really like you to have
27 somebody do, just see how many of those blue-light 23-1 units
28 there are, and what it would really take in time and material to

1 just, like, put bars in so that people couldn't get out.

2 In other words, if the theory is so that they
3 can't get out and hurt another ward, I think bars can take care
4 of that. I'd probably rather see -- what do you call that
5 stuff -- the razor ribbons that you could see through rather
6 than be in the dark.

7 Just see how much that would cost, and how
8 quickly that could be done. That's like sensory deprivation.
9 If they can come out at all not being totally whacked out, it
10 would be amazing to me. That's kind of what they used to do to
11 brainwash POWs according to a couple friends of mine who were
12 POWs.

13 SENATOR ROMERO: On that, too, to let them see a
14 little bit more sunshine, because even when they go from that
15 blue light and that lockup, when they are out it's basically
16 you're out into another cage, essentially. And that's what you
17 walk, in another cage.

18 There were a number, not here, but I remember
19 from when I was at Preston, they said -- they would show us
20 their skin, saying, "Look how pale we are. We'd like to see the
21 sun."

22 CHAIRMAN BURTON: Prison pallor.

23 SENATOR ROMERO: That's just something that I
24 think -- we shouldn't run torture chambers. We should run
25 rehabilitation services. These are young people, after all.
26 California has an opportunity to work with them, to
27 rehabilitate, to give people a new opportunity, a new chance.

28 I know you've got some big challenges ahead of

1 you, but I think that just starting off with a sense of humanity
2 is a good way to begin the reforms.

3 MR. ALLEN: Thank you, Senator.

4 CHAIRMAN BURTON: Witnesses in support.

5 We'll have your written statements submitted for
6 the record. Just give us basically your name, rank, and serial
7 number.

8 MR. BROWN: Good afternoon, Mr. Chairman and
9 Members of the Committee. My name is William F. Brown, Jr. I
10 am the Chief of Police for the City of Lompoc. I'm also the
11 First Vice President of the California Police Chiefs
12 Association, Chairman of Santa Barbara County Law Enforcement
13 Chiefs Association. I serve as a member of Governor
14 Schwarzenegger's Juvenile Justice Reform Working Group and on
15 his Parole Reform Committee.

16 I'm here today to recommend that you do
17 yourselves, the citizens of California, and the California Youth
18 Authority a big favor by confirming Walter Allen III as
19 Director.

20 Through my professional association with Walt
21 Allen while he was Special Agent in Charge of the Los Angeles
22 office, and later Assistant Chief of the California Bureau of
23 Narcotic Enforcement, I can tell you that he is a man of
24 integrity whose solid law enforcement and managerial experience
25 makes him imminently qualified for this important position.
26 However, his extraordinarily upbeat personality, his tremendous
27 people skills, his willingness to think outside the box, and his
28 fresh perspective are what makes him exactly the right person to

1 lead the California Youth Authority during this critical period
2 in the organization's history.

3 The CYA has been in the spotlight recently with
4 the disclosure of some deeply rooted problems and a series of
5 disturbing and high profile use-of-force incidents. Many of
6 these problems are complex and systemic. They took a very long
7 time to develop, and as such, they simply cannot and will not be
8 solved overnight. CYA is a monolithic organization with more
9 than 5,000 employees, and the process of positive change will
10 take time.

11 There's an old axiom that says you can turn a PT
12 boat around a lot faster than you can turn around a battleship.
13 Problems exist, but make no mistake about it: Significant
14 efforts are under way to solve those problems.

15 I encourage you not to lose sight of the fact
16 that those who work in the CYA have some of the toughest and
17 most thankless jobs in our state. Most of their wards are hard
18 core or serious criminals, many with mental health and substance
19 abuse problems. For the most part, they are not juvenile first
20 offenders, but rather they are young people, the majority of
21 them actually adults, who have accumulated a track record of
22 failure at local efforts to curb their delinquency. On the
23 whole, they are difficult to manage, difficult to treat,
24 difficult to educate, and difficult to rehabilitate.

25 Most CYA staff members are decent, hard-working,
26 dedicated employees who need to be provided with the means to
27 carry out their challenging mission. The resource they need the
28 most is strong leadership. That is exactly what they are

1 getting with Walt Allen at the helm.

2 Walt Allen is a leader who is totally committed
3 to public safety. He recognizes the need to incarcerate
4 dangerous and violent youth, but he also understands that
5 California's juvenile justice system needs to be reformed. He
6 knows that the system must do more to prevent future criminal
7 activity by better preparing those who are incarcerated for
8 their eventual return to the community.

9 During his short tenure as Director, Walt Allen
10 has already instituted and/or overseen many positive changes and
11 reforms within the CYA. His increased use-of-force training has
12 put into place systems designed to enhance the recruitment of
13 quality employees. His concern for the wards led him to
14 institute changes throughout the CYA so that those who are
15 incarcerated are now offered more structured activities than
16 ever before, thereby increasing the likelihood of successful
17 rehabilitation.

18 Under Walt's leadership, wards who are enrolled
19 in drug treatment programs now receive 22 hours of therapy per
20 week, where previously they had only received 2 hours of
21 treatment.

22 Walt has already brought his creative and
23 collaborative thinking to the CYA. He has already reached out
24 and asked for input from the California law enforcement
25 community in the development of new and innovative leadership
26 training for the CYA staff.

27 Walt Allen is the type of leader who holds his
28 people accountable when they are wrong, and who supports and

1 defends them when they are right. Since his appointment, he has
2 been tireless in his efforts on behalf of the CYA, and I have no
3 doubt that he will continue to exert this same level of energy
4 and enthusiasm for the job if you confirm him in this position.

5 In conclusion, let me reiterate that the
6 California Police Chiefs Association strongly recommends that
7 you seize this opportunity to confirm Walter Allen III as the
8 Director of the California Youth Authority. You could not
9 bestow your trust upon more worthy person.

10 CHAIRMAN BURTON: Thank you.

11 People with written statements, submit them to
12 the clerk for the record and just give us basically your name,
13 your organization, and support.

14 Brother Mabry.

15 MR. MABRY: I don't think it's fair if I don't
16 get the same amount of time last speaker had.

17 [Laughter.]

18 CHAIRMAN BURTON: Well, I got news for you, it
19 ain't fair.

20 MR. MABRY: My name is Roy Mabry. I'm the State
21 President for the Association of Black Correctional Workers.

22 I'm here for complete support for Mr. Allen. We
23 work with him, and he has an awesome job ahead of him.

24 Not only that. Walt, last night I had dinner
25 with Aneicy Baker, who was murdered [sic] it'll be nine years
26 ago, eight years ago on the 9th of this month. I had dinner
27 with her mother last night and her daughter, who's a former
28 correctional officer, currently a parole agent, and they sent

1 their best wishes and congratulations.

2 CHAIRMAN BURTON: Yes, sir.

3 MR. REMINGTON: Thank you, Mr. Chair, Members. I
4 am Cal Remington. I'm the Chief Probation Officer of Ventura
5 County, but today I'm representing the Chief Probation Officers
6 of California as their President.

7 When the new Director of the Youth Authority was
8 appointed about eight months ago, there were two issues high on
9 our agenda for that person. One was reform of the Youth
10 Authority, and the other was a director who would reach out and
11 communicate with the counties.

12 The Youth Authority is an important part of the
13 juvenile justice system, even though it receives less than two
14 percent of our county delinquents.

15 I've known Walt since February of this year. He
16 did quickly reach out to our association. He has met with all
17 the chief probation officers in California. He has convinced us
18 that he is, in fact, committed to change; he's committed to
19 reform. And I think he's everything that we had hoped for when
20 that appointment was made.

21 On a personal basis, I also think I've learned
22 he's a great person, and I think he's the man to do the job.
23 Senators, I urge you to confirm Mr. Allen.

24 Thank you.

25 CHAIRMAN BURTON: Thank you.

26 Next.

27 MR. BEJARANO: Good afternoon. Thank you very
28 much for hearing us. I am Oscar Bejarano. I'm an academic

1 teacher at California State Prison, Sacramento. I'm also the
2 Parliamentarian for the Chicano Correctional Workers
3 Association. CCWA is who I represent today.

4 Mr. Allen received CCWA's endorsement for his
5 position as Director of CYA. Mr. Allen's positions regarding
6 front line staff involvement and his commitment to quality
7 employee training is in concert with CCWA's mission. We are
8 energized with Mr. Allen's policy to openly solicit and
9 synthesize staff experience to help formulate an effective
10 agency.

11 Further, we feel confident with a leader who
12 understands and cares that taking care of an employee is a very
13 important component in getting an effective agency.

14 We, CCWA --

15 SENATOR JOHNSON: Sir, what's more important to
16 you? Getting him confirmed or giving us a speech?

17 MR. BEJARANO: That was the last sentence, sir.

18 SENATOR JOHNSON: Thank you.

19 MR. BEJARANO: As a teacher, we usually have to
20 finish our lectures and then test people.

21 CHAIRMAN BURTON: No pop quizzes.

22 MR. BEJARANO: Thank you, Mr. Burton.

23 We would like CCWA to endorse that you, as a
24 committee, endorse Mr. Allen for the position.

25 CHAIRMAN BURTON: Thank you very much, sir.

26 Next.

27 MR. MOORE: My name is Ross Moor. I'm a
28 lieutenant at N.A. Chaderjian School in Stockton. I'm also the

1 Chapter President of the local California Correctional
2 Supervisors Association.

3 I'm here today in support of Mr. Allen as
4 Director. Mr. Allen has inherited a very difficult job, but we
5 think he deserves a chance to implement his policies, his
6 procedures, his vision, and we support him and look forward to
7 working with him.

8 CHAIRMAN BURTON: Thank you, sir.

9 Next.

10 MR. ROGER: Thank you. My name is Leslie
11 Rogers.

12 As Walter's former parish priest, and as a
13 long-time life-long friend, I'd like to endorse him for this
14 position.

15 I've never read any of his evaluations. I've
16 never read his job description, but I have read his heart.

17 CHAIRMAN BURTON: Thank you very much.

18 MR. TATUM: Hello. I'm Richard Tatum, State
19 President of the California Correctional Supervisors
20 Organization, which represents supervisors and managers within
21 the California Department of Corrections and California Youth
22 Authority.

23 As you can tell here, there's some difficult
24 times ahead for the Youth Authority and Corrections. Basically
25 we think Mr. Allen's the guy to make those changes and do that.
26 We ask for your support.

27 Thank you.

28 MR. CRUZ: My name Andrew John Cruz. I'm with

1 the National Latino Peace Officers Association, State of
2 California. We strongly support and recommend Mr. Allen's
3 confirmation.

4 Thank you.

5 CHAIRMAN BURTON: Thank you, sir.

6 Next.

7 MR. ESTRADA: We actually have three speeches
8 written, but I'll take the short version.

9 My name is Albert Estrada. I'm the Vice
10 President of the Mexican American Correctional Association, and
11 I'm a member of the Los Angeles County Probation Department.

12 And the Mexican American Correctional Association
13 would like to support the confirmation of Mr. Walter Allen III.
14 And we live next door to each other, West Covina.

15 MR. LOVELL: My name is John Lovell. I'm
16 representing the California Narcotic Officers Association and
17 the California Peace Officers Association.

18 We strongly support Walt's confirmation. I've
19 known Walt for four or five years. He was my boss at CNOA.
20 He's a very innovative leader. This is a great appointment.

21 CHAIRMAN BURTON: Next.

22 Witnesses in opposition? Hearing none, move the
23 nomination.

24 SECRETARY WEBB: Senator Karnette.

25 SENATOR KARNETTE: Aye.

26 SECRETARY WEBB: Karnette Aye. Senator Romero.

27 SENATOR ROMERO: Aye.

28 SECRETARY WEBB: Romero Aye. Senator Johnson.

1 SENATOR JOHNSON: Aye.

2 SECRETARY WEBB: Johnson Aye. Senator Burton.

3 CHAIRMAN BURTON: Aye.

4 SECRETARY WEBB: Burton Aye. Four to zero.

5 CHAIRMAN BURTON: Leave the roll open for Senator
6 Brulte.

7 Congratulations.

8 [Thereafter, SENATOR BRULTE

9 voted Aye, making the final

10 vote 5-0 for confirmation.]

11 CHAIRMAN BURTON: Matthew Cate, Inspector
12 General, Youth and Adult Correctional agency.

13 Go ahead, sir.

14 MR. CATE: Good afternoon, Mr. Chairman and
15 Members. Thank you for this opportunity.

16 I know there's going to be two people left
17 because my wife and mother are both here.

18 [Laughter.]

19 CHAIRMAN BURTON: Introduce them now.

20 MR. CATE: My wife, Rachel, and my mother, Nita,
21 are in the back.

22 I honestly believe the state prison system finds
23 itself in an interesting crossroads. Due to poor management,
24 errant policy, and tough, difficult economic times, we find
25 ourselves with a correctional system that's badly in need of
26 repair. The problems are well known. The IRP report notes that
27 spending costs are out of control, that we're unable to meet
28 medical care mandates, that our recidivism rates are among the

1 worst in the United States, and that frankly we're not taking
2 care of those who can't take care of themselves, meaning our
3 Youth Authority wards in all circumstances, and those especially
4 those with medical, mental, and emotional needs.

5 While this is difficult news, I believe it's also
6 a great opportunity because, perhaps for the first time in
7 sometime, a lot of folks are pulling together. In talking to
8 people about these issues, from the Governor's office, Secretary
9 Hickman, Director Allen, Director Woodford, along with Members
10 of the Legislature, community groups, everyone wants fundamental
11 change, and everyone's willing to pull together to do that. And
12 so, I think this is a great opportunity.

13 Along with that comes a grave responsibility
14 because if we mess this up now, I don't know when the next
15 opportunity we'll have will be. We owe an obligation to the
16 inmates to treat them humanely, and to the honest correctional
17 officers to give them due process in this area, and to the
18 public who pays the \$6 billion tab every year.

19 So, what's the Inspector General's role? Really
20 it has four parts. One is to aggressively yet fairly audit and
21 investigate our prison system from top to bottom, to find and
22 uncover criminal conduct, poor management, waste, and other
23 abuses. We should find our problems before the federal courts.

24 Secondly, I believe the Inspector General should
25 be the eyes and ears of the public. By their very nature,
26 prisons are closed systems. It's hard to know what's going on
27 in there if you're a member of the public. And the Inspector
28 General has a golden key. I can go anywhere I want, any time I

1 want, look at any piece of paper, talk to any inmate, any
2 correctional officer, and it's my job to do just that, but not
3 only to learn myself, but to let the public know what's
4 happening on regular basis.

5 I can probably sum up by saying all the promises
6 that Mr. Allen just made, it's my job to make sure that he
7 follows through, and if he doesn't, to yell and scream about
8 it.

9 Next, I believe it's my job to collaborate with
10 prison officials to reach the best possible solutions. It's not
11 enough to throw stones. Because of my perspective, having input
12 from all different stakeholders, I think I need to work with the
13 correctional agencies to try to find the best practices and the
14 best solutions.

15 And finally, it's my job to hold the prison
16 systems accountable, our administrators accountable. Someone
17 needs to keep track of the problems that are identified.
18 Someone needs to keep track of the solutions that we decide to
19 adopt. Someone needs to keep track of the effectiveness of
20 those solutions. And finally, somebody needs to keep track of
21 whether the solutions are actually working. And I believe
22 that's the function of the Inspector General.

23 Before I conclude, I want to say I owe a special
24 debt of gratitude to the men and women that are in the Inspector
25 General's office now. They've gone through a very difficult
26 time period, losing their budget, preparing for shutdown. Yet
27 when I stepped in, in March of this year, they were willing and
28 able to do everything they could to help, despite all those

1 problems. They've helped me to re-establish the office.

2 Working with Senator Romero and other
3 Legislators, we're changing the law to try to allow for more
4 transparency. We have begun the Bureau of Independent Review
5 which will provide oversight of the entire officer discipline
6 process.

7 And finally, we've just launched the largest
8 audit in the history of the Inspector General's office, what I
9 call the Accountability Audit, where we're asking CDC and CYA,
10 in light of all the audits we've done, and over the past four
11 years, and all the changes you've promised to make, how many
12 have you actually made? So, we'll be publicly reporting on
13 those results when they come in.

14 Finally, thank you for this opportunity to meet
15 with you today. I look forward to answering your questions.

16 CHAIRMAN BURTON: Thank you, Mr. Cate.

17 How many staff are in your office now?

18 MR. CATE: Twenty-four.

19 CHAIRMAN BURTON: Does that include clerical and
20 investigative?

21 MR. CATE: Yes.

22 CHAIRMAN BURTON: What's the ratio?

23 MR. CATE: There's about 14 investigative -- 15
24 investigate staff and 10 administrators and clerical.

25 CHAIRMAN BURTON: How much staff do you think
26 would be ideal?

27 MR. CATE: About three times that much.

28 CHAIRMAN BURTON: Have you figured out how you're

1 going to prioritize your responsibility, given that you're only
2 one-third staffed up, so to speak?

3 MR. CATE: My first priority is to get CDC to do
4 a better job of policing itself. The officer discipline process
5 needs to be investigated by CDC. They have Internal Affairs
6 people. They need to get to the bottom, do professional
7 investigations, find misconduct, and discipline officers
8 effectively themselves.

9 So, we're using our expertise to oversee what
10 they're doing, to make sure it happens, it's done right, and
11 then publicly report on what we find.

12 So, having them do a better job of policing
13 themselves is number one. The same thing on their audits.
14 There's no reason that Director Woodford should have to wait for
15 me to tell her what's wrong. She should be able to do audits
16 herself.

17 So, what we've talked about together is using our
18 expertise to make sure that they're meeting national standards
19 concerning their own auditing and accounting practices for their
20 organization. Those are the first two things.

21 And then we get 5,000 complaints a year, and we
22 don't have near the staff to be able to investigate each of
23 those. So, our priorities are, again, to those who have the
24 least ability to protect themselves: the wards, female inmates.
25 We take special care where we get officer complaints against
26 other officers, those kinds of things. Those are our priorities
27 initially.

28 CHAIRMAN BURTON: How about officers' complaints

1 against inmates?

2 MR. CATE: Well, again, there is a process in CDC
3 to handle that.

4 CHAIRMAN BURTON: And basically, you would like
5 to some extent to not investigate the investigators, but oversee
6 the investigations when they start them.

7 Is your office notified if CDC opens a file on
8 what would be a semi-serious charge?

9 MR. CATE: Yes.

10 CHAIRMAN BURTON: Would you have enough staff to
11 do anything to be looking into the Bureau of Prison Terms, or
12 that kind of would take a back position, so to speak, because of
13 your lack of staff?

14 MR. CATE: I hesitate to say it deserves a back
15 position, but the safety of inmates comes first, but there's
16 work to be done at the Board. That's for sure. I know that
17 something has to happen with recidivism rates or we're just
18 going to all be on a big treadmill.

19 CHAIRMAN BURTON: I would assume, given all the
20 stuff in the press and given all the stuff coming out of Senator
21 Romero's committee, have you given any consideration to going
22 for a supplemental appropriation or upping the ante next budget
23 cycle, have those discussions with the Governor and Finance to
24 see?

25 I guess in theory, if your office does the job
26 right, either we're saving money on one end or preventing loss
27 of money due to lawsuits on the other.

28 MR. CATE: I told the Governor's Office that I

1 think I'll need more money at the mid-year already for that very
2 reason. And then yeah, again in the next budget year.

3 My only concern there, Senator, is how fast I can
4 effectively grow. I can't hire deadwood; I can't afford it.

5 CHAIRMAN BURTON: Senator Johnson.

6 SENATOR JOHNSON: Do you have any idea of how
7 many Internal Affairs officers or investigators there are within
8 these systems?

9 MR. CATE: Yeah. There's over 100 in CDC.
10 They're broken up into three regions.

11 SENATOR JOHNSON: In other words, the State of
12 the California is paying for well over a hundred --

13 MR. CATE: Yes.

14 SENATOR JOHNSON: -- people to investigate these
15 things.

16 All right. Thank you.

17 CHAIRMAN BURTON: Heretofore it would seem to me
18 they didn't do much of a thorough job.

19 SENATOR JOHNSON: That's precisely my point,
20 Mr. Chairman. If we're paying to have those kinds of
21 investigations conducted, and they're not being appropriately
22 conducted by some of the people we're paying, then maybe we
23 ought to re-allocate those dollars as opposed to saying let's go
24 out and look. Keep paying these guys to do it, who are not
25 doing it, and then bring in some more people to actually do it,
26 that doesn't make a whole lot of sense.

27 CHAIRMAN BURTON: Senator Romero.

28 SENATOR ROMERO: Just a couple questions.

1 I've actually had a good opportunity to work with
2 Mr. Cate, and I think I've been very pleased with his responses,
3 his initiative. So, I don't have too many questions.

4 But let me just ask this though. The Office of
5 Inspector General, I don't care how many regs and policies and
6 everything that we put in, ultimately it takes backbone. It
7 takes you standing up.

8 What kind of backbone do you have?

9 MR. CATE: Just ask my wife and mother.

10 [Laughter.]

11 MR. CATE: Well, that's yet to be determined,
12 isn't it, in the public front. I think as a prosecutor I had a
13 lot of backbone, but this is a different job.

14 I tell my staff that the work's going to be --
15 the work won't require as much backbone the first two years or
16 year-and-a-half because everyone's going to say, "Yeah, that's
17 terrible. I can't believe that we used to do it that way;
18 certainly we've got to change it. I can't believe that they
19 used to have that program."

20 But two years from now, or two-and-a-half years
21 from now, it's going to be this administration's fault. Then
22 that's where the IG needs backbone. I've got to be able to
23 stand up and say, "This thing still stinks, and you've had two
24 years and you haven't fixed it. And I don't care if you
25 appointed me or not."

26 SENATOR ROMERO: Now right now, you report
27 directly to the Governor; correct?

28 MR. CATE: That's correct.

1 SENATOR ROMERO: When were you appointed?

2 MR. CATE: March.

3 SENATOR ROMERO: On how many occasions have you
4 had an opportunity to sit down with the Governor and report to
5 him and say, "Mr. Governor, I think X, Y and Z about the OIG."

6 MR. CATE: We've talked twice, and then we're
7 going to be speaking again next week.

8 SENATOR ROMERO: Good, because I think that's
9 really important, to make sure that you report directly to the
10 Governor, that you march on in.

11 I think that's been some of the flaws from the
12 previous OIGs, that they did not have the access that's
13 required. That's just something that I want to encourage you
14 on, to just march on in there and speak your piece.

15 The other issue that I would just raise is with
16 respect to investigations. We talk a lot about investigations,
17 but to some extent YACA, CDC, CYA, especially CDC, I think, it's
18 almost become a culture of investigation. Something goes wrong,
19 or somebody says something, and right away there's finger
20 pointing every which way.

21 In my mind there are truly investigations, and
22 then there's "can we bring people in and just figure out what's
23 going on here and settle this."

24 Help me understand what you might be doing to
25 perhaps also encourage that we change and reform the culture of
26 investigation where investigations are sometimes the weapon of
27 choice.

28 MR. CATE: I have noticed that culture. At the

1 Attorney General's office, if you had a problem with somebody,
2 you pulled them in and said, "Hey, I noticed you're doing X, Y
3 and Z. Knock it off." That's as far as it went.

4 For some reason in a prison culture, everything
5 is a complaint, or a lawsuit, or something else among staff.

6 I think that all I can do is two things. One, I
7 can encourage good management by Director Allen, Director
8 Woodford on those issues.

9 And secondly, I can hold people accountable who
10 make false accusations. That doesn't happen right now, but
11 those need to be summarily denied. And to the extent that they
12 can be proven that they're false, or that they were done for
13 harassing purposes, those need to be prosecuted.

14 Really, you're talking about a management
15 issue.

16 SENATOR ROMERO: Thank you.

17 CHAIRMAN BURTON: Senator Karnette.

18 SENATOR KARNETTE: How does Internal Affairs fit
19 into the overall structure of the union, management and
20 yourself? I'm a little confused.

21 Who does the internal affairs bit? Who are those
22 people?

23 MR. CATE: Well, they're employees of CDC and
24 CYA. They're a separate division or branch of each of those
25 departments.

26 They're made up of investigators who are hired
27 either from within the department to do that work of
28 investigating wrong doing, or they're brought in from the

1 outside and hired specifically for that purpose.

2 But they're just another division of the greater
3 institution of CDC or CYA.

4 SENATOR KARNETTE: Are they union members?

5 MR. CATE: I don't believe so.

6 As far as members of CCPOA?

7 SENATOR KARNETTE: Right.

8 MR. CATE: I don't believe most of them are.

9 SENATOR KARNETTE: Are they supervisory
10 personnel? Do they have some kind of an unit though?

11 CHAIRMAN BURTON: No.

12 MR. CATE: There's a mix of supervisory personnel
13 within internal affairs and investigative staff within internal
14 affairs.

15 As I sit here, I don't know how many of those
16 people are a part of the CCPOA union, though.

17 SENATOR KARNETTE: I was just curious, because I
18 think how much information people can get is kind of determined
19 by who they are and how they fit into the structure.

20 MR. CATE: That's a problem just because of the
21 relationships these people bring into Internal Affairs. They
22 come from -- if they come from the institution, they have all
23 kinds of relationships within the institution. And the other
24 concern is, are they going to go back to the institution. If
25 so, they're concerned about, do I really want to find something
26 on the man or woman who's going to be my next boss.

27 You're right. That's an issue.

28 CHAIRMAN BURTON: Isn't that almost everything

1 with Internal Affairs?

2 MR. CATE: It is.

3 CHAIRMAN BURTON: Cops and that, except in
4 theory. It used to be the way to get a promotion if you took
5 the job nobody wanted, you did that for five years, and you got
6 a gold shield instead of a plain one.

7 Witnesses in support, briefly.

8 Speaking on behalf of Brother Mabry and others.

9 MR. LOVELL: John Lovell with the California
10 Peace Officers Association, police chiefs, narcotic officers,
11 and probation officers.

12 All those groups support Matt's confirmation.

13 Let me address one thing very quickly in response
14 to Senator Romero's comments.

15 I've actually worked with Matt very closely
16 every fall.

17 CHAIRMAN BURTON: This is to his backbone?

18 MR. LOVELL: Yes.

19 Every fall, I teach classes for cops all around
20 the state. You go to a different city every day. Matt was one
21 of the instructors.

22 When you see someone every single day, they can't
23 BS you. You see really who they are.

24 If there were two words to describe Matt Cate,
25 they would be --

26 CHAIRMAN BURTON: One would be back, and the
27 other would be bone.

28 [Laughter.]

1 MR. LOVELL: -- the highest standards of
2 professionalism, highest standards of integrity. He's just an
3 outstanding individual.

4 CHAIRMAN BURTON: Thank you.

5 Witnesses in opposition? Hearing none, call the
6 roll.

7 SECRETARY WEBB: Senator Karnette.

8 SENATOR KARNETTE: Aye.

9 SECRETARY WEBB: Karnette Aye. Senator Romero.

10 SENATOR ROMERO: Aye.

11 SECRETARY WEBB: Romero Aye. Senator Johnson.

12 SENATOR JOHNSON: Aye.

13 SECRETARY WEBB: Johnson Aye. Senator Burton.

14 CHAIRMAN BURTON: Aye.

15 SECRETARY WEBB: Burton Aye. Four to zero.

16 CHAIRMAN BURTON: Keep it open for Brulte.

17 Congratulations, and good luck to you.

18 [Thereafter, SENATOR BRULTE

19 voted Aye, making the final

20 vote 5-0 for confirmation.]

21 CHAIRMAN BURTON: Thomas Eres, California
22 Adjutant General of the Military Department.

23 General.

24 GENERAL ERES: Good afternoon, Mr. Chairman,
25 Members of the Committee.

26 I'd like to present my bride of 39 years, who's
27 decided to join me and, I hope, in support, Jackie.

28 This is an incredible time in the country, the

1 nation, the state. On behalf of the 21,000 men and women of the
2 California National Guard, we are poised and ready to provide
3 for the homeland security and homeland defense of both the state
4 and the nation.

5 We are engaged in mobilizations in Iraq that have
6 not been looked at since the days of the Korean War. With all
7 of that stress, I can tell you that our recruiting and retention
8 is one of the things that I spend a great deal of my time and
9 effort on, and that I can report that at this stage of the game,
10 we are well suited in terms of the forestructure that's been
11 allotted to us by the federal government.

12 I am concerned as we move forward with the
13 stresses that have been placed on our soldiers and airmen and
14 state defense force in terms of family support, employer
15 support, and community support. And we have put together
16 programs in order to make sure that we maintain those three
17 levels of incredible support. Without the family, without the
18 employer, and without the community, the volunteer force of your
19 California National Guard will not be a sustainable force for
20 long. But I'm pleased to report that all of those three sectors
21 have responded in great and demonstrative ways.

22 I have prepared a written response for you and
23 the Committee, and I would spend the rest of my time responding
24 to any questions that you might have, sir.

25 CHAIRMAN BURTON: Thank you, General.

26 How many Guard members were called up and sent
27 over to Iraq; do you know?

28 GENERAL ERES: Iraqi Freedom, before my tenure, I

1 believe we were approaching around 4,000. Right now I've got
2 about 2,000 Army, about 500 on the Air Guard side, and I have
3 approximately 4500 that are in the pipeline that are being
4 poised and ready for mobilizations, not only in Iraq but in
5 other outside-the-continental-United-States theaters.

6 CHAIRMAN BURTON: In Iraq and Afghanistan, round
7 numbers?

8 GENERAL ERES: Round numbers today would be about
9 2500.

10 CHAIRMAN BURTON: I was talking to -- a term that
11 I hate -- the First Lady last night -- not the person but the
12 term -- and she was talking about other states that for the
13 Guard and people that were called up to possibly have some,
14 again depending on the financial circumstances, but some type of
15 almost six-month moratorium of sorts.

16 In other words, there's somebody overseas,
17 doesn't come back, and it ends up they lost their house because
18 they left the job where they were making, I don't know, \$4,000 a
19 month, or 5,000, or whatever. I don't even know what you get in
20 the Army any more. It's more than when I was in it, but it's
21 still not a lot of dough.

22 Has there been any thought to some kind of
23 benefit program for the people that got called up out of the
24 Guard and out of the Reserve and away from jobs, as opposed to
25 those that are already regular Army that chose that way of life?
26 Do you have any comment on that?

27 GENERAL ERES: Yes, sir. We have a number of
28 programs.

1 First, on the side of creditors' rights, we have
2 the Soldiers and Sailors Relief Act, which I know you're
3 familiar with, in order to protect them while they have been
4 mobilized.

5 CHAIRMAN BURTON: The Soldiers and Sailors Relief
6 act of 1941?

7 GENERAL ERES: Well, it's been updated a little
8 bit, sir, but it's still there and provides the kinds of
9 insulation from creditors.

10 We also have had incredible support on a
11 voluntary basis with employers up and down the state who,
12 believe it or not, are stepping up to the plate and making up
13 the difference in pay from that old pay of what we pay our
14 soldiers and what they would have been making had they
15 remained.

16 CHAIRMAN BURTON: What do you get now? What
17 would an E-2, whatever?

18 GENERAL ERES: Oh, my goodness. It's not above
19 too much the minimum wage. It's pretty low. In fact, one of
20 the concerns we've had --

21 CHAIRMAN BURTON: Do you have a number?

22 GENERAL ERES: I don't have the number, no, sir,
23 for an E-3.

24 CHAIRMAN BURTON: It's more than the 75 a month I
25 was getting.

26 GENERAL ERES: More than 75 peppercorns?

27 CHAIRMAN BURTON: No, we got 75 a month. I'm
28 older than you. We got 50, and the guy, Dewey Short, who was a

1 Congressman from Missouri, raised it to \$75 a month. And
2 everybody on the base in Austria got drunk that night, drinking
3 to Dewey Short. What a guy he was.

4 GENERAL ERES: I think we've had a couple of cost
5 of living adjustments since then, I hope.

6 CHAIRMAN BURTON: All right, Senator Johnson.

7 SENATOR JOHNSON: No questions.

8 CHAIRMAN BURTON: Senator Romero.

9 SENATOR ROMERO: Let me ask some questions on
10 this theme as well, too.

11 You mentioned that it's 2500 in Iraq, Afghanistan
12 right now, with about 4500 mobilizing?

13 GENERAL ERES: Well, they're in the process of
14 mobilizing. They're in the pipeline, and probably over the next
15 six months will be deployed.

16 SENATOR ROMERO: So, that's about 7,000 from
17 California.

18 How many are in the California National Guard?

19 GENERAL ERES: Approximately 16,000 in the Army,
20 about 5500 in the Air, and about 600 in the State Defense Force.

21 SENATOR ROMERO: Of course, there's been a lot of
22 concerns and critiques about the mobilization, is this sort of a
23 back-door draft issue. That's at the national level that we're
24 taking these issues.

25 How does this affect California's response to
26 homeland security, preparation for terrorism at home? We've got
27 more and more going, 7,000 at this point, who knows how many
28 more? How does that affect your operations here in California?

1 GENERAL ERES: Well, we have two types of forces
2 that we provide the Governor of the State of California. One is
3 what I'm going to call a specialty force, and that is not
4 measured so much by the numbers but by the expertise. These
5 would be medical folks, these would be military police, these
6 would be people that are in the chemical recon-decon, these
7 would be civil support teams.

8 So, I'm comfortable that we are robust in the
9 area of specialty support, in effect a layered response to
10 civilian authority.

11 I think the point you're making goes to what I
12 would call a stability force. If we had a major series -- and I
13 emphasize a series of incidents that are relatively simultaneous
14 up and down the state -- could we bring enough boots on the
15 ground, a common task-trained, to respond? And in terms of
16 California, not knowing what scenario we would dealing with, I
17 would have to say that we will look to other states, which I
18 have the ability to do, to augment any force that is required
19 within the state.

20 And we've been in the process of working out
21 arrangements with those other states so that if I knew we had
22 five hits in five communities up and down the state, and I felt
23 we needed 5,000 -- just to pick a raw number -- troops in order
24 to have that stability force, I know what states I would call
25 and ask could they import the force and bring those in under
26 circumstances where we could control them under the authority of
27 the Governor.

28 SENATOR ROMERO: Just finally, in the past

1 there's been some and I'll just say criticism of the California
2 National Guard troops with respect to activities at the border,
3 supplementing border security, et cetera.

4 Can you let me know right now or in the recent
5 past what is the relationship with the California National Guard
6 and Federal Immigration Services with respect to any border
7 actions that might be taking place? What's the policy?

8 GENERAL ERES: Well, the policy for the National
9 Guard in support of federal law enforcement activity, which is
10 on the border, which would be the federal responsibility, is
11 that we're there under what's called Title 32 of the United
12 States Code, which means we're there under state law. So, we
13 are a supplement to the -- we used to call it the Border Patrol,
14 Customs, Immigration.

15 Our responsibilities there primarily are, I'll
16 use the term passive support in the sense that we'll do some
17 observation, we'll do some construction with respect to on the
18 border.

19 As you are aware, we're conducting a series of
20 barriers to help harden the border from really basically out
21 into the Pacific and all the way inland.

22 But in terms of specific concerns, I'm not
23 familiar right now with any that would be a problem that would
24 be dealing with those federal law enforcement agencies. I was
25 there about a week-and-a-half ago to take a personal look in
26 terms of how we're doing in that support. I came away with --
27 about the 300 that we have in the Counter Drug Task Force, most
28 of whom are involved in the engineer-side of the house, that

1 they're performing in, I think, a professional manner.

2 SENATOR ROMERO: And Guards have not been used in
3 any apprehension or raids on suspected undocumented immigrants?

4 GENERAL ERES: No, ma'am. We are not authorized
5 to get involved in direct search, seizure, arrests, or other
6 similar activities of a law enforcement nature.

7 SENATOR ROMERO: Thank you.

8 SENATOR JOHNSON: Witnesses in support?
9 Witnesses in opposition?

10 Move the nomination. Call the roll.

11 SECRETARY WEBB: Senator Romero.

12 SENATOR ROMERO: Aye.

13 SECRETARY WEBB: Romero Aye. Senator Johnson.

14 SENATOR JOHNSON: Aye.

15 SECRETARY WEBB: Johnson Aye. Senator Burton.

16 CHAIRMAN BURTON: Aye.

17 SECRETARY WEBB: Burton Aye. Three to zero.

18 CHAIRMAN BURTON: We'll hold it open.

19 Congratulations, General.

20 [Thereafter, SENATOR BRULTE and

21 SENATOR KARNETTE voted Aye,

22 making the final vote 5-0 for

23 confirmation.]

24 [Thereupon this portion of the

25 Senate Rules Committee hearing

26 was terminated at approximately

27 3:10 P.M.]

28 --ooOoo--

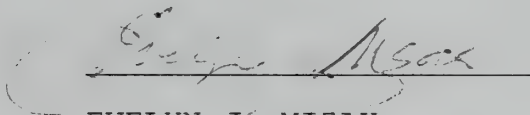
CERTIFICATE OF SHORTHAND REPORTER

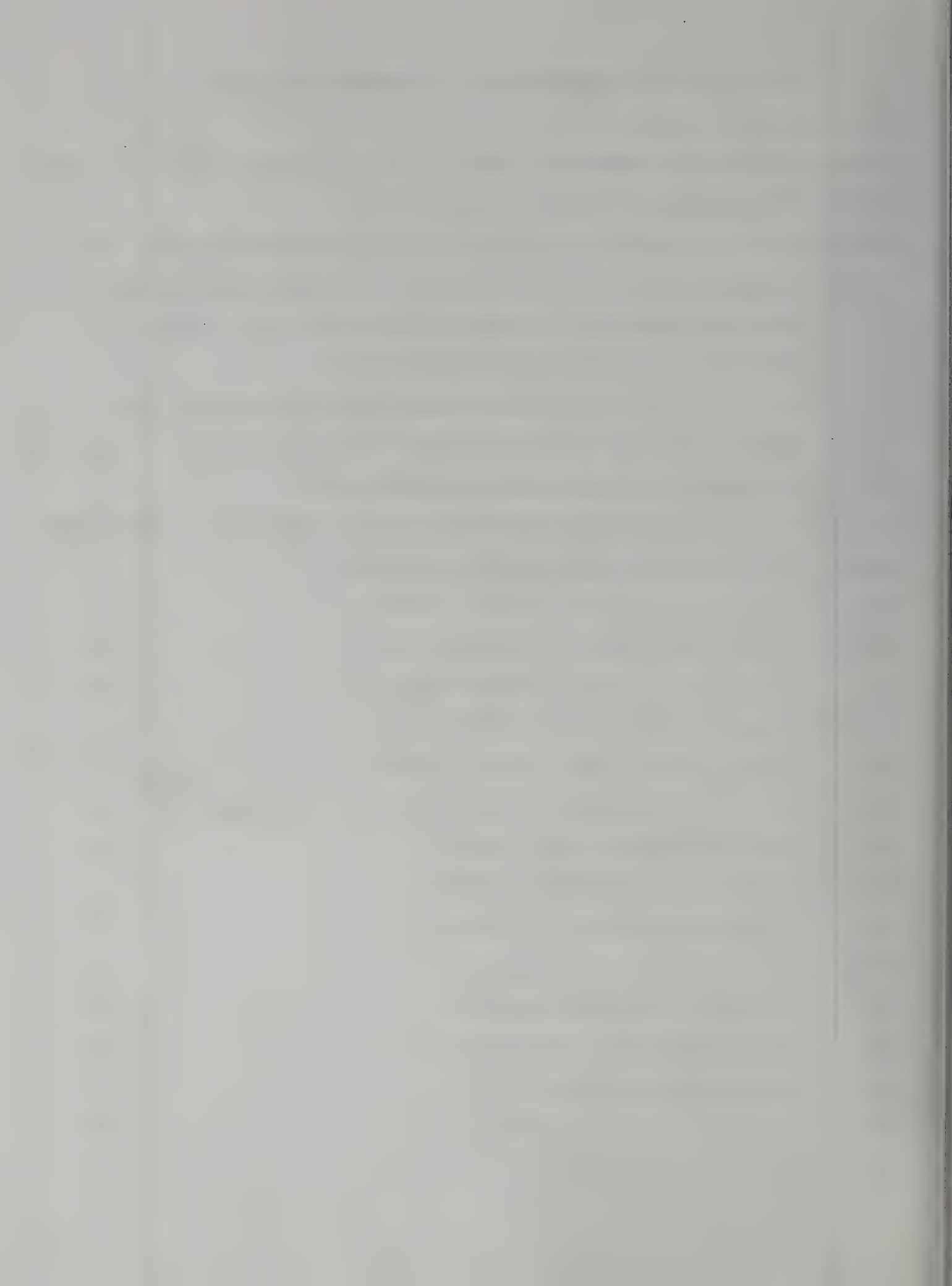
I, EVELYN J. MIZAK, a Shorthand Reporter of the State of California, do hereby certify:

That I am a disinterested person herein; that the foregoing transcript of the Senate Rules Committee hearing was reported verbatim in shorthand by me, Evelyn J. Mizak, and thereafter transcribed into typewriting.

I further certify that I am not of counsel or attorney for any of the parties to said hearing, nor in any way interested in the outcome of said hearing.

IN WITNESS WHEREOF, I have hereunto set my hand this 10th day of August, 2004.


EVELYN J. MIZAK
Shorthand Reporter



DEPARTMENT OF THE YOUTH AUTHORITY

ice of the Director

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June 7, 2004

The Honorable John L. Burton
Chair, Senate Rules Committee
State Capitol, Room 420
Sacramento, CA 95814-4900

Dear Senator Burton:

On May 19, 2004, you requested information regarding the California Youth Authority and its programs. Per your request, I have enclosed written responses to the questions and forwarded them to your staff. It is my hope that this background material will be helpful in the decision-making process.

If you have any questions or require further clarification on any issues please do not hesitate to call me at (916) 262-1467.

Sincerely,

A handwritten signature in black ink, appearing to read "Walter Allen III", followed by a large, stylized flourish.

Walter Allen III
Director

WA:ec

Director's Response
May 19, 2004 Senate Rules Committee Questions

1. Please provide us with a statement of goals. What do you hope to accomplish during your tenure?

As the Director of the Youth Authority, my goals are based upon the mission and vision that I have for creating a California Youth Authority of the 21st Century.

Vision

The California Youth Authority will contribute to the public safety of the citizens of California by maintaining a safe and secure therapeutic environment, which will result in the optimum delivery of rehabilitative services for wards charged to its care.

Mission

The California Youth Authority will protect society from the consequences of criminal activity by providing youthful offender rehabilitation through education, employment training, treatment, and parole services that provide a continuum of care and assist with the reintegration of youthful offenders into society.

Goals

1. Implementation of the California Youth Authority Vision, Core Values and Strategic Plan.
2. Use of the expert reports and the subsequent remedial plans as road maps for the necessary reforms that must be made in the California Youth Authority.
3. The CYA will use recommendations from the Governor's California Performance Review, Independent Review Panel and the Youth and Adult Correctional Agency Strategic Plan, to complement any reforms that are required by the remedial plans.
4. CYA will use assessment tools to measure the results of the remedial plans to ensure compliance with the Prison Law Office Settlement Agreement.
5. The CYA will institute a department wide Youthful Offender Classification System, which will have an intake risk and needs assessment instrument, a custody and security initial classification tool, a custody and security re-classification instrument and a parole risk and needs assessment instrument.

6. The implementation of smaller living units will be a primary goal. This will create less compressed living conditions, lower staff/ward ratios and improve social relations, behavior, treatment and safety.
 7. CYA will implement the "Enhanced Casework Staffing Model," which will allow Youth Correctional Counselors to dedicate more of their time to counseling wards.
 8. The CYA management team will implement department wide accountability programs, which will ensure that all staff members are adhering to CYA policies, procedures, and our vision and mission.
 9. CYA will implement leadership development programs to ensure that the department continues to make positive changes to the existing culture.
 10. The CYA will be committed to creating a partnership with the California juvenile justice system by networking with juvenile justice stakeholders.
 11. The CYA will foster a transparent environment. With positive input from the public, the Legislature, the courts, staff, and wards our department will make positive changes and demonstrate our determination to once again be recognized as a leader in youthful offender rehabilitation.
2. **The expert reports on CYA catalogued a multitude of deeply rooted problems. The reports concluded that CYA is a dangerous place for wards and staff, that institutions fail to provide appropriate treatment, education and rehabilitation programs and that wards who leave CYA are often a greater public safety risk than when they were initially committed to CYA. These conclusions mirror the findings of public hearings that the Senate held four years ago. In your view, what are the systemic causes that have led to the current conditions at CYA and how should they be addressed?**

In my view, the four most important systemic causes that have led to the current conditions at CYA are: 1.) the lack of a valid classification system; 2.) inadequate living unit capacity; 3.) inadequate training and the lack of appropriate selection and hiring standards; and 4.) inadequate resources. ✓

First, in the past several years, while the department's population has declined, the youthful offenders we receive have become increasingly violent and troubled. These trends require a significant increase in mental health and substance abuse treatment needs for the department. A new classification system is required to conduct an accurate intake risk and needs assessment for each incoming offender that is based on the ward's total delinquent behavior profile. In conjunction with a classification system, the use of the Integrated Treatment Delivery Care System (ITDCS) will assist the Youth Authority by providing a full continuum of care

tailored to a ward's needs, family involvement, as well as medical, educational, psychotherapy, pharmacological, and counseling services.

Second, as a result of the large number of wards in our living units, effective treatment of wards and control of violence and gang-related activity has become increasingly difficult. Less time is spent rehabilitating wards while more attention is given to resolving daily conflicts. With the decline in population, the department has the opportunity to improve conditions by offering smaller therapeutic living units. The implementation of smaller living units will create less cramped conditions, lower the staff and ward ratios, reduce violence and gang-related activity and improve social relations overall.

Third, an inadequate hiring process and training program have been a major contributors to the systemic problems within the Youth Authority. The lack of an adequate training program for leadership and managerial development as well as the limited time expended for the proper selection and hiring of personnel has resulted in numerous unnecessary staff/ward incidents. An increase in supervisory training and maintenance and appropriate staff will lead towards necessary reforms in our rehabilitation programs. The department will be able to facilitate staff training with a major emphasis on increased mental health needs, gang affiliations, as well as ongoing peace officer standards and training.

Finally, the California Youth Authority has a difficult mission that requires substantial resources. The proper rehabilitation of California's most troubled youth requires both intensive treatment and strict and regular staff supervision and interaction. Over the past few decades the resources available have declined and the CYA has moved away from treatment and toward a correctional environment. Reversing that trend and becoming a national model for youthful rehabilitation will not be easy or come without costs.

3. **At a time when State Government is being held accountable for measurable results, please identify the five most important performance and outcome measures that the Legislature should use in evaluating CYA and CDC. For each of these performance measures, please provide us with any specific plans that will result in identifiable improvements over the next three years.**

Given the differing mission and goals between CDC and CYA and my lack of familiarity with all of their policies and internal decision-making process, I feel that it would be inappropriate for me to comment on the proper performance and outcome measures that would be used to evaluate another department. However, in the case of the CYA, performance and outcome will be easily measurable once the department reaches a final agreement in the current lawsuit and publicly releases the remedial plans developed in conjunction with the settlement.

These plans will address six areas including general corrections, mental health treatment, health care, education, sex offender treatment, and disabilities. Each

area has a compliance review involved to ensure that all goals are met and state resources are appropriately allocated and utilized. The Legislature and the courts will have ample opportunity to review the plans and hold us accountable in all six areas under the guidelines and requirements developed in those plans.

In addition to utilizing the evaluation results in the remedial plans, the CYA is currently in the process of adopting an in-house inspection program, based upon a program now used by the California Department of Justice, which will be conducted throughout the department in every institution, camp and parole office. The annual inspection program will be utilized to ensure compliance to policies and procedures. In the event that an institution, camp or parole office fails to meet a predetermined number of standards, the inspection team will return to the facility within six-months to ensure that appropriate corrective action plans have been implemented.

An objective inspection program will be a primary step towards ensuring that the CYA continues to meet appropriate standards. In addition to the formal inspection program, the CYA Compliance Unit will be conducting unannounced surprise inspections of institutions, camps and parole offices to determine if there are any compliance issues that may need to be addressed.

4. What is CYA's recidivism rate? How do you track recidivism? Do you believe CYA's current method of tracking recidivism is a credible measurement tool? Given current budget restraints, what plans do you have to improve the tracking of CYA's recidivism rate?

The current 24-month "recidivism" rate for the California Youth Authority is 47%. However, only about 28% of these individuals were returned to custody as a result of a legal violation. The other 19% were revoked for technical violations such as associating with known gang members, ignoring parole conditions, drug use, etc.

Recidivism seems like a simple concept, a return to crime, but it turns out to be a difficult thing to measure. There is no national measurement standard used by juvenile justice agencies or researchers and data is not always readily available. That being said, there are many ways to measure "recidivism", such as arrests, returns to custody, or returns to custody excluding technical violations, and each method has its limitations.

For many decades, the CYA has routinely reported outcomes of parole, which is often referred to as the "recidivism rate". However, this is not a very accurate description because it is not simply a measurement of the number of wards who are returned to custody due to criminal activity. Rather, it is a measurement of the decisions made by the parole board because often a parolee may be revoked when no "crime" has been committed or when it is clear that the ward is not adjusting to

community life. Conversely, the board may continue a ward on parole when a crime has been committed if the ward pays his or her debt at the local level. In addition, this measurement is limited to the time when wards are still under CYA jurisdiction. Many wards reach the maximum age of jurisdiction after a few months on parole. The current measure does not include any information on events that may occur for wards after discharge but before the end of the 24 or 36-month follow-up period.

Given those facts the data may not seem very valuable but this measurement is actually an excellent tool for the purpose it was intended, which is simply as a planning tool for the department. This measurement is very accurate in reflecting the number of individuals that will be returned to CYA institutions and to give a general and consistent measure of CYA activity over time. It was never intended to track the long-term success or criminal activities of wards that are released to parole.

The CYA has always recognized the limitations of the current system for providing a picture of criminality after parole. Despite our budgetary limitations, we are currently attempting to improve the data collected. At this time the department is working in conjunction with the Department of Justice to collect information on the criminal history of all wards over the past 15 years. It is our intent to utilize this data for a routine, comprehensive tracking of arrests, convictions, and reincarceration rates for wards over a 3-year, 5-year, or 10-year period following their release.

- 5. Although CYA maintains responsibility for only about 2% of the state's juvenile offenders, the CYA is an integral part of the state's overall juvenile justice system. How can this system become more efficient and effective? What can CYA do to improve communication and coordination with committing courts and county probation departments?**

The key to an efficient and effective juvenile justice system is our ability to communicate and share information, resources, and ideas. As director, it is my intent to provide an "open-door policy" to all involved government agencies, advocates, and the public. Transparency and inclusion will be important themes during my tenure and I hope to actively work with the community to build a better system.

Communication and coordination with committing courts and county probation departments are critical to maintaining and improving the current system. It is our intent to involve all county and court stakeholders in our workgroups and strategic planning efforts. In the future, the CYA needs to be proactive in soliciting new avenues of contact and cooperation with the courts and probation.

Given that philosophy the department has a long road ahead but some strides have already been made. As of January 2004, the CYA now provides juvenile courts

and probation departments initial and annual reports concerning the wards that they have committed to the Youth Authority. These reports will substantially improve county connections with their commitments by providing updated information on each ward's behavior and treatment progress.

In addition, the CYA will participate in many of the working groups and conferences offered by these entities. Many of these events, such as the Juvenile Law Institute, Beyond The Bench conference, and the Chief Probation Officers of California quarterly meetings, will provide the Youth Authority with numerous opportunities to coordinate efforts and work with the juvenile justice community to improve the system

Following the release of the Farrell Vs. Harper expert reports in December 2003, I invited California county courts and probation departments to visit our facilities and interview their Youth Authority commitments. Since February, twenty-nine counties have completed sixty-one visits to our facilities throughout the State. The Department's Intake and Court Services Division, who maintain open and continuous communication with county judges and probation officers, coordinated these visits.

6. **A recent LAO analysis of the CYA staffing at selected institutions in 1995-96 and 2002-03 found that total staffing declined by 17% while the population at these institutions decreased over 50%. More significantly, the treatment and group living staff was reduced by 28% and education staff were cut by 31%; custody staff increased slightly during this same period of downsizing. As CYA's population continues to decline, how would you prioritize staffing levels that are consistent with CYA's public safety and rehabilitation mission?**

Within the parameters of the collective bargaining environment, I will work diligently to reevaluate the needs of the wards and redistribute existing resources based on our priorities. The immediate focus for staffing levels will be the following:

- **Providing adequate mental health staffing and services.** While the total number of committed offenders has declined, the proportion of violent and mentally ill offenders has increased. These wards require more treatment from trained and licensed professionals, as well as special programming from non-licensed staff. The need was clearly demonstrated in 2001, when faculty and staff members of the Psychiatry Department of the Stanford University School of Medicine conducted a 5-month evaluation of the Department of the Youth Authority's mental health system. Their findings included:

- Extremely high prevalence rates of psychiatric problems such as conduct disorder (93%), substance abuse dependence (85%) and anxiety disorders (31%).
 - Few wards (3%) are without one or more mental health problem(s).
 - On average, 71% of male wards have three to five diagnosable disorders and 82% of female wards have three to nine diagnosable disorders.
 - Female wards generally have higher rates of disorders than male wards.
- **Providing adequate health care staffing and services.** The Department of the Youth Authority does not meet correctional and community standards of health care for wards. The National Commission on Correctional Health Care has developed standards of care for juvenile detention and confinement facilities. These standards provide a method to evaluate and direct health care operations and reduce the risk of liability related to health services. In addition, Title 15 contains requirements for health care services. The areas covered by these standards and requirements include: access to care, sick call, pharmaceutical administration, health record documentation, infectious diseases, assessment of the ward-patient's condition and behavior, ward-patient education, discharge planning, and infection control. While there are changes we can make within existing resources, additional positions will be required to meet the national standards of health care.
 - **Maintaining a secure system.** As new programs are implemented, there may be a need for additional security coverage. For example, mental health services have traditionally been provided through residential programs. We are now providing services in residential programs and on an "outpatient" basis. The outpatient services require wards to be escorted from living units to the location where mental health staff are housed, thus creating an additional demand for security coverage.
 - **Providing adequate general education and specialized program services:** In its Supplemental Report to the Legislature (2002 Budget Act, item 5640-011-0001) the Department identified three particular areas of deficiency to fulfill its education service requirements. Those were: 1) recalculate the base number of teachers for general education; 2) create a staff to student ratio for wards in a restricted programs since none existed to date; and 3) create a relief pool of 15 percent of full-time staff. The recently released expert report on the department's education programs determined its academic programs were adequate to meet the education services needed of today's wards, but the funding mechanism was outdated even with the recent legislative changes. The expert report focused on the insufficient number of teachers in core academic and special program areas that limited students' access to education and was a main contributor to class

cancellation rates ranging from 20 to 30 percent per day. The staffing ratios used today are one teacher for every 15 regular education students; one teacher for every 12 special education students, and one teacher for every five students housed on a restricted programs living unit. The shortage of appropriately credentialed full-time and part-time teachers, and the piece-meal approach (year-by-year from Proposition 98 funds that would otherwise revert) to fully-fund all the teaching positions identified in the Supplemental Report to the Legislature has a significant impact on the number of class closed on a daily basis.

- **Providing additional time for Youth Correctional Counselors to counsel wards.** A large portion of the Youth Correctional Counselor's time is now devoted to supervision and security tasks such as supervising showers, meals, and recreational activities or escorting wards to various locations throughout the institution. For wards to make a change in the area of criminality and violence, our staff needs to invest more time in quality treatment and positive interaction with their assigned caseload.
7. **What is your assessment of the CYA's existing substance abuse treatment program both within the institution and during parole? Is the existing program effective in reducing recidivism? To what extent are existing programs meeting the need as determined by the assessment process? Do you favor an expansion of drug treatment programs? If so, what is your plan for implementing an expansion of these programs? Who should operate these programs?**

When it was originally started, the substance abuse program at the CYA was funded and implemented in a haphazard manner. Over time modifications and additional funding allowed for the enhancement and improvement of many of the institutional and parole programs. However the initial problems, primarily the lack of standardization in protocols and treatment, were never fixed, rendering substance abuse treatment at CYA ineffective in many cases.

In January, we began implementation of a new Therapeutic Community model, which is intended to remedy many of the ills of the current system. This new program will substantially improve substance abuse treatment at the Youth Authority. Admission to the Therapeutic Community program is based upon a needs assessment evaluation determined through the administration of a Drug Experience Questionnaire (DEQ), a standardized evaluation tool developed by the University of Vermont. Every ward whose score falls within the "drug treatment flag" range is offered placement in the program. Additionally, those wards with low scores but high "defensive flags" are eligible for participation.

Since this new program has only been in operation for roughly 18 weeks, it is too early to report its effects on recidivism. However, the responses from both staff and wards to the curriculum, the TC program and contract vendors have been

extremely positive. The new program appears to have sufficient beds for the adult population but there is a waiting list to enter the juvenile program at OHCYCF. As a result, it may be necessary to shift some resources as we continue our needs evaluation.

With more than 80 percent of the youthful offenders having substance abuse related problems, there is a need to provide and expand treatment by providing both institutional and community aftercare to meet the treatment needs of youthful offenders. Parole can expand treatment services through contracts with community treatment providers to provide a standard of treatment for both residential and counseling services. Community treatment providers should be community-based, with therapeutic community treatment experience treating youthful offenders, and be licensed, and certified by the Department of Alcohol and Drug Programs.

8. What is your assessment of CYA's existing treatment program for mentally ill offenders both within the institution and during parole? Is the existing program effective in reducing recidivism? How could it be improved?

While the mental health programs provided by the CYA have some strong components, they are generally very deficient. A number of the problems inherent in the system were outlined in the expert report on mental health written by Dr. Trupin and Dr. Patterson. These include a lack of proper training and staffing ratios, failure to provide central direction, and variability of care at different institutions. However, the department is moving in a positive direction. Since the time of the initial report the CYA has implemented several changes intended to improve the system including:

- A four-hour training for all custody staff in the Department in "Recognizing the Signs and Symptoms of Mental Illness" in the June 2004 round of training.
- A draft of a comprehensive Mental Health Manual describing each level of mental health care, admission and discharge criteria, treatment offered, and standards for amount of treatment received by ward on a weekly basis from psychiatrists, psychologists, social workers, youth correctional counselors, etc. This manual will be used to implement department-wide standards to ensure that all programs deliver the same level/types of treatment that are available in the community.

In addition to the changes we have already made, our mental health services will be further enhanced as a result of the remedial plan implementation. A significant impact will be seen through the implementation of:

- The Integrated Treatment Delivery of Care System, which supports multiple levels of care with specific standards of care for wards with varying levels of mental illness and mental health issues;
- The Enhanced Casework Model, which will provide the Youth Correctional Counselors with the time they need to do their counseling;

- The Mental Health Reorganization, which will provide professional mental health staff to provide services to wards in general population,
- The comprehensive training program for staff in research-based treatment modalities and in conjunction with nationally recognized universities;
- The Individualized Change Plan, which will provide a structure for the development of treatment plans that are comprehensive and the product of an Interdisciplinary Treatment Team including treatment, custody and education staff.

The effect the CYA's existing mental health system on recidivism is unknown. To the extent that the programs provide an alternative sanction in lieu of revocation and reduce abnormal behavior, they should have an impact. However, the CYA does not currently have data that clearly illustrates the exact effect of mental health programs on the recidivism rate.

The mental health program at CYA could be improved by reducing the population of living units while increasing the use of contracts with community-based treatment professionals to include additional transition services, counseling, residential and day treatment and training for the service provider and CYA staff. Coordinating and collaborating with other state or local governments could further improve the program through the development of memorandums of understanding when seeking the same or similar services from local community based service providers.

9. In 2002, the Office of Inspector general found that the mental health delivery system in CYA's lockdown units was in "complete disarray". In his report of December 2003, Dr. Barry Krisberg wrote that most mental health experts would argue that the isolation wards experience in lockdown units could only exacerbate their conditions. Yet, there was still no protocol in place for the delivery of mental health services in lockdowns units on January 19 when two cellmates – who were considered high risk for suicide – killed themselves in a lockdown unit at Preston Youth Correctional Facility. Both wards were on psychotropic medications and one was awaiting placement in a mental health unit. What protocol has been established for the delivery of mental health care to those in need of lockdown units? What is CYA policy regarding the placement of wards considered high risk for suicide in lockdown units? How many wards diagnosed with mental health problems are currently in CYA lockdown units?

The department has developed treatment protocols for wards with identified mental health issues that may require placement in a lock-up unit. This criteria includes all wards who are a high risk for suicide or who have been on suicide watch in the past six months. Three separate policy memos have been developed and address the following protocols:

- No two wards that are high risk for suicide will be housed together. The suicide risk level for all wards will be reviewed by a mental health professional within one day after arrival.
- Wards identified as meeting the exclusionary criteria for a Special Management Program (SMP), meaning that a ward has exhibited areas of concern that identify him/her as fragile or in a condition that could worsen with isolation, will not be placed permanently into an SMP. If temporary placement is necessary, they will receive a high level of mental health services until a permanent mental health placement bed opens. This criteria will also be followed for wards on suicide watch who may need temporary placement on an SMP if it houses institutional safe-rooms.
- Wards identified as having mental health issues and who are placed on temporary detention status or into an SMP will receive mental health services that are equivalent to the Specialized Counseling Program level of care for the duration of the time they are placed on the SMP.
- The department is currently implementing numerous physical modifications to our facilities, such as window replacements and removal/replacement of dangerous furnishings, in order to provide suicide-safe rooms.

In general, the implementation of the Mental Health Reorganization (Stanford Study) staffing pattern will provide all institutions with adequate resources to provide mental health, supportive services on the lock-up units.

There were 31 mental health wards in SMP units as of the end of April 2004.

10. What is your assessment of CYA's existing treatment program for sex offenders both within the institution and during parole? Is the existing program effective in reducing recidivism? How could the program be improved?

The expert report conducted by Mr. Thomas pointed out several systemic problems with the department's sex-offender treatment programs. While, the report correctly reflected the inadequacy of the programs, we are continuing to enhance the current system with the ultimate goal of providing high quality treatment for all wards in our custody.

Since the time Mr. Thomas completed his evaluation and wrote the final report, new residential sex offender treatment programs were opened and added to the existing program. A 12-Stage standardized sex offender curriculum and program was also written and implemented for the wards in the four residential sex offender treatment programs. A revised Sex Offender Referral Document (SORD), a screening tool for placement of sex offenders in treatment programs, was implemented on July 1, 2003. The SORD utilizes nationwide best practices in the assessment of sex offenders and it measures risk and likelihood of wards to re-offend sexually. In April and May 2003, CYA completed a 40-hour training

course on the new sex offender 12-stage curriculum for staff who work in the four residential sex offender programs, and for field parole agents who supervise sex offenders. All program managers, parole agents and casework specialists received eight hours of training on processing the SORD, and the assessment and classification of sex offenders.

Last year we also created a sex offender task force. The members researched nationwide best practices in the treatment and assessment of sex offenders and they worked closely with a nationally known sex offender treatment expert, Jerry Thomas, to develop the 12-stage curriculum and a model. The model, once implemented, would treat all wards in the CYA who meet one or more of the following criteria: are 1) committed for a sex offense; 2) have a prior adjudication/conviction of a sex offense; 3) have a documented history of sex offense(s); and/or 4) have a reported or documented pattern of deviant or sexually inappropriate behavior. Wards meeting one or more of the above criteria, who are not placed in a residential sex offender program, will participate in an outpatient sex offender treatment program. The outpatient program will be implemented in all eight CYA institutions. In addition to the curriculum, the sex offender task force developed a model/vision for the treatment of sex offenders to include: parole aftercare, psychological testing including the polygraph and the Abel screening assessment, eight resource groups, family counseling, a research component, performance standards, mandated annual staff training and specialized curriculum for wards with special needs.

The CYA research division has conducted three studies in 1991, 1993 and 2000 on the Carter Sex Offender Program and the Humboldt Sex Offender Program. Each study suggested that wards that successfully completed the treatment programs had much lower recidivism rates than sex offenders who were not placed in sex offender treatment. At this time we have not evaluated the enhanced program and as the remedial plans are implemented, we expect to see improvements in the success rates of wards provided with treatment.

The program could be improved through full implementation of the 12-stage sex offender treatment program. This would allow the CYA to treat all sex offenders utilizing a standardized curriculum. The management of the sex offender programs would be centralized and this oversight would provide opportunity to ensure that the performance standards are met. The new program would allow us to provide assessment and monitoring with the use of the polygraph and other psychological assessments. The program would provide annual mandated staff training for all staff working in the sex offender programs. Finally, the program includes an ongoing sex offender task force to continue to review and incorporate nationwide best practices in sex offender treatment, assessment and monitoring.

11. Under what conditions should wards be placed in single-cell isolation, and for how long? How many wards are currently in isolation and what is both the average time spent and the specific length of stay in isolation for each ward?

As is the case with the current CYA policy, wards should only be placed in a restricted program (isolation) in very limited circumstances. Currently, restricted programs are reserved for wards that meet one of four criteria: danger to self, danger to others, endangered and likely to escape or have demonstrated a pattern of violence, or serious Disciplinary Decision Making System (DDMS) behavior that poses a risk to the safety of staff and wards. Restricted program is not intended to be punitive. Rather it provides the wards with a more secure environment that may assist with programming and the safety and security of the individual and the institutions.

Restricted programs vary in length and are determined on a case-by-case basis through policy guidelines and the appropriate management. The average length of stay varies from 4 days to 52 days depending upon the type of restricted program, the ward's behavior, and institutional safety. Any extensions are reviewed and approved by a committee and recently my Chief Deputy Director was added to the committee to ensure that extensions only occur when absolutely necessary.

For your review, I have included attachment #1, which includes the average length of stay for various programs and a table showing the current number of wards in restricted programs and their location.

12. What is the status of the settlement discussion in the Farrell lawsuit with the Prison Law Office and, in particular, what are the outstanding issues of contention and timeframe for reaching resolution on these matters?

The CYA continues to negotiate in good faith and hopes to reach a fair and equitable settlement in the Farrell case. Both the Youth Authority and attorneys for the plaintiff have differences over the current settlement proposal. However, we continue to meet and I anticipate our discussions will culminate in a settlement within a short period of time. I believe a settlement is possible because both the CYA and the plaintiff agree that significant changes must be made and that such changes must be guided by the recommendations of the expert reports.

Fundamental changes are clearly necessary within the Youth Authority, and I am committed to making that happen. However, I have a duty to the state and the public to negotiate the most favorable settlement terms possible. The goal of this administration is to improve the programs of the Youth Authority so that once again the department is seen as a place of hope for delinquent youth. The

settlement terms must be carefully weighed and considered to ensure that scarce tax dollars are spent in a manner that maximizes this goal.

While we have successfully reached agreement on several broad issues requiring programmatic reform within the Youth Authority, solutions in other areas are still in development. For example, I believe it is important for the settlement to establish measurements to determine if the agreed upon reforms are successfully implemented. Such measurements would also be subject to further negotiations.

Our attorneys have cautioned me about publicly discussing the specific issues and plans that are currently being negotiated. However, I would be happy to fully brief you once the negotiations are concluded and we have reached a final agreement. Please be assured that, no matter what the status of the settlement discussions, I will continue to improve and bring necessary change to the department.

13. During the course of closing institutions, what specific measures are you taking to ensure that wards are placed in facilities located reasonably close to their home communities?

As the CYA closed facilities, placement of wards was obviously a major concern for all parties. For the most part, placement is determined by the facilities that can best meet the program needs of a ward and that are age and court of commitment appropriate. However, in light of the Legislature's directive to keep as many wards as is possible in a close proximity to their family, the CYA has made every effort to maintain wards in the appropriate region, particularly in the Southern California area.

For example with the closure of Fred C. Nelles Youth Correctional Facility (FCNYCF), the department is taking several steps to maintain wards in Southern California. I have specifically arranged for the transfer of the facility's sex offender program to the Southern Youth Correctional Reception Center and Clinic (SYCRCC) in nearby Norwalk. In addition I have also directed the department to develop a young ward program at SYCRCC to house and provide education and treatment for the youngest offenders formerly placed at FCNYCF. A tracking system has been developed for those wards that cannot immediately be placed in Southern California as a result of space constraints so that these wards may be transferred back to SYCRCC as soon as bed space becomes available. These changes will allow the young offenders to remain in or return to SYCRCC in Los Angeles County to be near their families.

The changes were not entirely limited to younger offenders. FCNYCF wards aged 18 and older were sent to the Herman G. Stark Youth Correctional Facility in Chino.

- 14. One expert report described the levels of violence in CYA facilities as unprecedented in juvenile correctional facilities nationwide. What do you believe are the primary causes of violence in CYA facilities? What impact does this institutional violence play in CYA's recidivism rate?**

Violence within the institutions is a significant problem for the California Youth Authority (CYA). It is important to note that the CYA is unique in comparison to other juvenile facilities nationwide. The size of our facilities, the type of wards we receive, and the staffing are all different from institutions in other states. Youthful Offenders housed in CYA facilities range from the age of 12 through 25 and approximately 70% of the population has been identified as members of a street gang.

In my view, violence in the institution cannot be blamed on just one problem. Rather, it is the result of a number of factors within the system including the ratio of wards and staff assigned to a living unit, predator gang dynamics, improper infrastructure, socio-economic factors, age, prevalence of mental illness and lack of proper counseling resources and attention for wards. As the department has taken budget cuts over the years, the elimination and/or reduction of vocational and other positive programs has lead to negative behavior and increased violence.

Though we do not specifically track the effects of violence on recidivism, institutional violence clearly has an impact. Violence prohibits effective programming and rehabilitation efforts, such as mental health and substance abuse treatment for wards.

- 15. Describe how your department is approaching the problem of gangs in CYA institutions, and how you measure the effectiveness of this approach. Please include or identify any new or innovative approach to controlling gang violence that you have employed, or plan to implement, at any of your facilities.**

In response to the growing problem of gang activity within the CYA, the department has taken action to improve its gang services for youthful offenders. One of the most important steps was the establishment of a Departmental Gang Coordinator (DGC). The DGC is a critical part of our overall plan to enhance and strengthen the CYA's gang prevention activities.

The DGC is responsible for directing department-wide efforts for prevention, intervention and suppression, providing functional supervision of all institutional gang coordinators, approval/disapproval of all offender's gang validation requests, the development of a comprehensive gang management policy, and maintenance of a gang identification and a gang violence incident tracking system that measures the level of gang incidents state-wide. The DGC also advises the Director and other top-level managers on gang-related issues and establishes

priorities, policies and training programs to ensure efficient and effective handling of gang issues.

In response to the expert reports, a remedial plan for gang violence has been developed. The remedial plan includes a gang violence reduction initiative, which includes a three-pronged approach encompassing the CYA's Institutions & Camps and Parole Services & Community Corrections Branches, as well as the community. Under this model, the problem is addressed first and foremost within CYA's institutions by providing specific, structured gang intervention programming to all offenders entering the Youth Authority. The effects of these new efforts will be tracked through special incident reports that are completed when violence or other problems are specifically gang related.

16. CYA internal affairs was very aggressive in its investigation, and its push for, the prosecution of two youth counselors at N.A. Chaderjian involved in the beating of two wards. But what systemic problems did the beating reveal to you? What are you doing to correct these problems?

This unfortunate event revealed that, in addition to inadequate training and the need to develop a new use of force policy, there were a number of cultural problems within the institutions.

In response to these problems I have taken several actions as follows:

- Retained two retired CDC administrators to develop new use of force policies and an administrative review process, which I have implemented on an emergency basis. The use of force policy is based on the CDC model that was developed under the direction of the federal court in the Madrid Lawsuit and therefore should be consistent with current legal standards and scrutiny.
- On-site emergency use of force training was provided at all CYA facilities and parole branch offices.
- Reinstated the Management Development Steering Committee, which will be responsible for the development of training programs for all CYA supervisors and managers.

17. Describe the programming available for female wards at Ventura, and any plans you have to enhance this programming. Should there be a female facility in Northern and Southern California? How can this be accomplished?

The programming available at the Ventura Youth Correctional Facility (VYCF) offers a wide variety of treatment, educational, vocational and work experience programs in order to meet the unique needs of the female population. In addition to the programming services available at all CYA institutions, VYCF also has a Fire Camp program, enhanced vocational programs, and many female specific opportunities. In addition a Free Venture program has been established that

enables small businesses to offer wards real-life work experience while earning minimum-wage salaries and VYCF has one of the largest and best developed volunteer programs in the state. There are approximately 300 active members who visit assigned wards on a 1:1 basis, facilitate groups, and perform other services that offer a link to the community.

In order to provide a more comprehensive description of the unique services at VYCF please see attachment #2.

Obviously, there would be some advantages to having multiple female facilities. We could then facilitate greater contact with family members, which is particularly important for the female population because they are more relationship driven and family contact can provide great strides in rehabilitation. However, resources currently limit us and, as noted above, VYCF provides a wide array of unique services. Duplication of the setting would be difficult without great expense to the state, especially given the limited number of female wards in comparison to the total population. If we were required to provide multiple facilities the services could suffer and female wards would be afforded less of an opportunity for change.

18. Describe the current status and use of the secured programming areas (SPAs) or "cages," in CYA institutions.

At my direction, all SPA's have been removed from CYA facilities. The remaining few were converted back to their original use as holding cells for short-term security during transfers or for wards that wish to utilize the telephone, as a few of the holding cells are conveniently located near telephone access. The current policy for holding cells is that no ward may be held, in any case, for more than 10 minutes at a time and the holding cells are never to be used for educational or counseling purposes.

19. What is your assessment of the reforms enacted by SB 459 (Burton) in terms of how they are working and how they can be improved?

The reforms in SB 459 made numerous positive changes. It represented a shift in responsibility from the board to the department. CYA now plays a critical role in determining the offense category, parole consideration dates, annual reviews, treatment programs, institutional placements, disciplinary decision making, and referrals for continued commitment pursuant to W&I §1800.

As I mentioned, the changes have improved the relationship between the board, local entities, and the department by allowing us to work together to ensure that wards are provided with appropriate and necessary treatment. It also created a fair and equitable disciplinary system for wards and greater oversight and

standardization of the training, treatment and time adds, which has resulted in a decrease in the time wards spend in the institutions.

At this time, the new policies and procedures have been in place for almost six months and we are now at a point where we can assess how the bill has been implemented. However, we still need to analyze the statistics and discuss whether additional improvements need to be made. The Department and the Board, during the month of June, will be meeting together to determine what, if any, recommendations are appropriate.

- 20. A report by Dr. Puisis (August 22, 2003) concluded that medical care provided to wards in the CYA is not commensurate with community standards of care. Further, these deficiencies are mostly organizational and procedural and should be correctable within the existing budget. What corrective actions have you implemented and what outcome measures are you monitoring to ensure appropriate healthcare delivery to CYA wards.**

Health care services are an integral part of the current settlement negotiations and we are in the process of developing a full medical remedial plan that will address many of the issues. Plans for restructuring the Health Care Services Division would afford health care services greater prominence within the organization and greater access to the administrative leadership. This will enhance authority over field operations and ensure standardization of policies and procedures and a system of quality management to increase professionalism and quality of care.

In line with Dr. Puisis' suggestions, the CYA is also working toward the retention of an individual who will provide organization, leadership and oversight within the Health Care Services Branch. Barring unforeseen circumstances, we should be able to make an appointment by the end of July 2004.

In order to ensure appropriate delivery of services, the department now collects medical data on a monthly basis from each of our sites. This information is used to identify medical service usage rates, staffing needs, and public health trends. In conjunction with this process each Chief Medical Officer is required to conduct a medical chart review of fifteen percent of the ward population on a quarterly basis. In addition, we are currently in the process of developing a Correctional Pharmacy Management System, in conjunction with the Department of Corrections, that will provide fiscal savings and evidence-based prescribing practices. We have also recently, appointed a medical supervisor as the interim Assistant Deputy Director of Mental Health and Health Care Services Branch. He will be reviewing the proposed organizational structure to ensure better use of health care services.

- 21. The Puisis report also determined that CYA lacks medical leadership, supervision, and administrative oversight. Have you implemented changes pursuant to the recommendations made in the experts report?**

The department is in the process of creating a new organizational structure that provides centralized leadership, supervision and administrative oversight of all health care services. We have created an elevated medical position and are in the process of locating a qualified candidate. A nation-wide search was initiated May 7, 2004. Bulletins were mailed to all state departments and hospitals as well as public and private medical facilities on the national level. In addition, Internet advertising has been placed with several medical associations, SPB, CYA, Managed Health Care Job Opportunities and others. We have also placed an ad in the Journal of American Medical Association, Sierra Sacramento Valley Medicine Magazine and the Modern Health Care Magazine.

The Medical Director's responsibilities will include providing professional clinical supervision and direction to all physicians and dentists at CYA facilities throughout the state. They will also be directly responsible for the supervision of the Chief Medical Officers, Chief Psychiatrist, Chief Dentists and Director of Nursing. It is our hope that CYA will be able to appoint this position by July 30. In the interim, an Acting Chief Medical Officer has been appointed to the position.

In addition to organizational efforts we have already implemented, the remedial plans, negotiated in accordance with the settlement agreement, will include additional compliance review elements to ensure proper oversight. These changes combined with our current efforts should address all concerns expressed by Dr Puisis.

- 22. Describe medical peer review process currently in place within CYA facilities to ensure adequate medical care. Please discuss the role of CYA headquarters in assuring standardization and efficient use of the medical peer review process, as well as the reports and data that you receive.**

In the past the California Youth Authority lacked a formal peer review process. As a part of the current settlement remediation we have included several concepts and policies that we believe will address concerns raised in the expert reports, including the establishment of a governing body that meets quarterly with the director to identify any barriers to health care services for wards. This will provide direct information and decision-making process within headquarters.

Initially, our plans called for a quality management review program that included an in-house peer review at both the institution level and at headquarters. However, at this time we are currently engaged in efforts to identify other alternatives, such as contracts with county medical societies or universities to provide community based objective peer review and remedial education where

warranted. These private entities should be able to collect and provide system data where necessary.

23. Describe the resources and expertise that you have utilized to determine if the medical, mental health and preventive health care needs of the CYA wards are being adequately addressed.

The CYA has retained a number of experts to assist us with evaluations of our systematic needs. In the health care area the CYA has contracted with Dr. Puisis and Madie LaMarre, M.N., C.F.N.P., to review our existing practices and make recommendations on how we could improve our health care delivery system. The CYA has also used the SAIC/Fox group to do an analysis of our current pharmacy system and we have contracted with Dr. Robert Chew of the Sacramento Mental Health Treatment Center to provide an assessment and make recommendations concerning standardization of our pharmacy system.

Upon receipt of Dr. Puisis report, the CYA health care staff was collected from various CYA facilities and directed to identify implementation strategies for the recommendations made to improve medical and preventive health care. We have also consulted with other state and national departments to determine if any there are any available systems that have been implemented in adult corrections that were acceptable to the court overseeing litigation against those departments. We are presently engaged in collaborative efforts with the Department of Corrections through the Youth Adult Correctional Agency oversight to establish pharmacy services that will improve pharmacy services and provide standardization and reduce cost.

ATTACHMENT #1
AVERAGE LENGTH OF STAY FOR VARIOUS RESTRICTED PROGRAMS

Temporary Detention average length of stay:

2000= 14 days

2001= 4 days

2002= 4 days

2003= 4 days

First quarter 2004= 4 days

Special Management Program Average Length of Stay:

2000= over 200 days

July 2001= 61 days

July 2002= 53 days

July 2003= 58 days

First quarter 2004= 52 days

Restricted Program
Numbers for: 4/29/04

	Chad	HGS	PYC F	KHS	OH C	DWN	FCN	PASO	VYC F	NYC RCC	SYC RCCL	TOTA	
Total TD's	26	44	33		20	1	18	26			8	176	
Total Admin. Restriction	1	2	0		0	0	0	0			0	3	Tot. pop.
Total SMP	46	51	44		0	0	15	34			0	190	4262
Total Serving DDMS	0	0	0		0	0	0	0			0	0	404
Total Special Ed	14	8	34		4	1	8	23			3	95	9%
												0	
Total Numbers	73	97	77	0	20	1	33	60	0	0	8	369	

ATTACHMENT #2

UNIQUE FEMALE WARD PROGRAMS AT VYCF

- **Work Experience:** Work experience is provided for the wards to obtain a more practical, applied experience. This includes working in such areas as the laundry, kitchen, landscaping, grounds maintenance, painting, carpentry and electrical departments. A Free Venture program has also been established to provide wards with real-life work experiences.
- **Specific Medical Services:** In addition to the normal health care provided at other institutions, Ventura is staffed by a nurse practitioner with expertise in OB/GYN. A Regional Hospital is within 10 miles of the institution and facilitates our ability to meet the needs of the female population.
- **Working Intensively Towards Success (WITS) program:** This is a living unit program for parole violators. The program prepares the wards to successfully transition into the community by focusing on the skills of decision-making, grooming, budgeting, health, problem solving, organizational skills, and parole expectations.
- **Healthy Families:** This curriculum introduces wards to healthy family dynamics and assists them in identifying unhealthy familial characteristics and presents them with appropriate parenting skills.
- **Pregnancy and Health Education:** Classes are taught by Nurse Educators on a regular basis.
- **Substance Abuse Treatment Program:** This living unit operates under the principals and practices of the Therapeutic Community (TC) methodology. The wards are involved in 20 hours of treatment groups per week facilitated by trained SATP counselors. This program also includes a Psychologist and a SATP expert from the Phoenix House.
- **Parenting program:** This is a 12-week course taught by Masters level therapists working for the Children's International Foundation and funded by the California Endowment. The program has a research component from UCLA. An attorney holds a legal clinic at the end of the 12 weeks and discusses the topics of custody, parental rights, and dependency court process.
- **The Treatment Mall:** This building consists of several group rooms, which are used to conduct small group treatment activities. These activities are:
 - **Girls Circle:** These are structured support groups, which are specifically designed to promote resiliency in adolescent girls. The topics of relationships, goal setting, body image, self-care, and self-image are discussed. A staff member that is trained in Girls Circle facilitates each group.
 - **Family Planning:** In accordance with WIC 1753.7 (c) Family planning education and services are given to each ward at least 60 days prior to her scheduled release date. The ward may also request to see a licensed physician to meet her family planning needs. Topics such as sexual decision-making, reproductive health, puberty, abstinence, contraception,

sexually transmitted infections, and parent-child communications are discussed.

- **AIDS Awareness:** A staff member from the Ventura County Department of Public Health provides AIDS awareness to our wards.
- **Dialectical Behavior Therapy:** Staff trained in DBT hold small groups on the topics of mindfulness, interpersonal effectiveness, and distress tolerance and emotion regulation.
- **Cognitive Behavior Therapy:** Staff trained in CBT hold small groups on the chain analysis of problem behavior. Wards are educated in how to recognize antecedents to their behaviors.
- **The Clothes Closet:** Wards who are being released to parole can select clothing items for job interviews and/or school. These are donated items, which are selected for their age appropriateness, as well as, employment.
- **Substance Abuse Treatment Program:** Six substance abuse groups are held each day and five days a week.
- **Kiwanis:** This service club is part of the Camarillo Kiwanis Club for District 42 and involves approximately 30 wards. This is a chartered club under the Key Club International. The club meets twice a month and participates in several programs throughout the year.
- **The Stanford Model General Outpatient Parole Agents (GPOP):** These Parole Agents provide 30 hours per week of direct service counseling and case management to wards who are designated by their treatment teams as needing a higher level of care. Most of these wards need more counseling contacts and may be on various types of restricted programs.

The following services are planned for the Treatment Mall:

- **Parole planning:** A field Parole Agent will meet with wards that are within 6 months of their scheduled parole date. Employment, social services, medical, and educational resources will be discussed as well as conditions of parole.
- **Domestic violence counseling:** A volunteer from the Coalition to End Family Violence will provide education and prevention skills as it relates to domestic violence.
- **Abuse counseling:** A volunteer from the Interface Children Family Services or the Coalition will provide individual and small group counseling on sexual, physical, and emotional abuse.
- **Life skills:** A teacher will provide education on budgeting, housing, nutrition, and employment readiness for transition to the community.
- **Sewing class:** A volunteer will teach the wards basic sewing for clothing repair and alterations.



OFFICE OF THE INSPECTOR GENERAL

July 9, 2004

The Honorable John Burton
Chair, Senate Rules Committee
State Capitol, Room 420
Sacramento, CA 95814

Re: Confirmation Hearing for position of Inspector General

Dear Mr. Chairman:

In anticipation of the Senate Rules Committee's confirmation hearing on August 4, 2004, regarding my appointment as the California Inspector General, the Committee posed six questions related to my goals and priorities for the Office of the Inspector General. The questions provide an excellent framework for discussing the direction I propose to take this office in the future. Here are the questions, along with my answers.

- 1. Please provide a statement of goals. What do you hope to accomplish during your service as Inspector General? How will you prioritize your goals? What additional resources have you requested, if any, to achieve your goals?*

My mission as Inspector General is to restore public confidence in the California correctional system. I will accomplish this mission through four primary goals, each of which is directly related to a core function of the Office of the Inspector General. The first goal or core function is to rigorously investigate and audit all of California's correctional organizations. The second goal is to infuse public transparency into the operation of the Inspector General and every department under the Youth and Adult Correctional Agency (YACA) by publicly reporting our investigative findings. The third goal is to collaborate with the various correctional departments and outside stakeholders to ensure that the best possible solution is found for each of the problems presently facing our correctional system. The final goal of my administration is to hold YACA accountable to implementing the changes that have been promised to the citizens of California.

By way of background, there is no question that the California's correctional system is in need of repair. The California Independent Review Panel recently reported that costs are out of control, recidivism rates are deplorable, inmates are being abused, health care mandates are not being met and that the system is unable to police itself. Many of these same concerns, along with several


Arnold Schwarzenegger, Governor

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others regarding the failure of the officer-discipline process, were expressed by Special Master John Hagar in his report to Judge Henderson concerning the on-going federal litigation in *Madrid v. Woodford*. Both of these reports agree that a strong, independent Inspector General is necessary to effectively meet these challenges. I agree with this assessment and believe that the Office of the Inspector General is critical because it performs the four core functions discussed below.

The first core function of the Inspector General is to doggedly audit and investigate California's correctional agencies in order to uncover criminal conduct, administrative wrongdoing, poor management practices, waste, fraud and other abuses by staff, supervisors and management. Upon reviewing the audits and large-scale investigations conducted by OIG staff in the past, I found a high degree of professionalism and solid investigative work product. However, due to severe budget cuts, the Inspector General lost a number of experienced staff members last year and those who remained had insufficient resources to conduct the necessary audits and investigations state-wide. Accordingly, one of my first priorities is to reinforce the existing strength of the OIG professional staff by bringing back key personnel and recruiting new staff who can fulfill this first core mission. With restored funding we will also provide the training, equipment and resources necessary to do the important job of unearthing problems within corrections that have yet to be identified. In order to reach this goal, I requested an increase in the OIG budget from \$3.3 million to \$8.3 million for the current budget year. This will provide the necessary resources to begin the rebuilding process.

The second core function of the OIG is to be the eyes and ears of the public. This is critical because prisons are, by their very nature, places where most events occur outside of the public view. It is not enough to find the problems; they must also be reported to the public. In my opinion, every Californian has a right to know whether their correctional system is functioning properly. Experience has shown that when the problems of any organization are disclosed only within the organization, they tend to be ignored or minimized. An example can be taken from an audit conducted by OIG audit staff two years ago of the internal affairs branch of the Department of Corrections. The audit identified many of the same problems that have been disclosed recently in Senate hearings, the Independent Review Panel report and the Special Master's report in the *Madrid* litigation. Unfortunately, the OIG audit was not made public at that time and went largely unheeded by CDC management. It is my goal to make every OIG audit and large-scale investigation a matter of public record by posting them on the OIG website in a timely fashion. We will also post a quarterly summary report describing the number investigations we have completed, the types of misconduct we have uncovered and what discipline has been meted out. It has long been said that sunshine is the best disinfectant. I believe that axiom is true and it is my goal to make public transparency a reality within our correctional agencies. In order to reach this goal, I will need legislative help. The present OIG operating statutes (Penal Code section 6125 et seq.) provides a scheme under which secrecy is the rule and transparency the exception. While the identities of whistleblowers and individual officers must be protected, the problems within our correctional agencies should be open to the public. I firmly believe that such public transparency will provide a powerful incentive to faster organizational and cultural change. Senators Romero and Speier have already taken up this cause and have authored legislation that would permit the Inspector General to do just that.

The third core function of the Inspector General is to collaborate with the correctional agencies and public stakeholders to see that best practices are adopted. Many of the problems facing the YACA

entities are longstanding, complex and subject to many competing interests. Accordingly, I will strongly encourage both public and private stakeholders to work towards finding solutions, rather than just identifying problems. My office will lead in this effort by working with the involved correctional agency to identify the best possible answer to every problem that we discover. Moreover, each potential solution to a problem should compete against the others in the marketplace of ideas, regardless of the source of the answer. I believe our correctional system would be much stronger today if previous administrators had listened to ideas proposed by outside sources, whether offered by civil rights groups, the Legislature, the courts, union organizations or the Inspector General. Some have suggested that if the OIG collaborates with a correctional administrator, the agency will lose its independence. I do not believe that to be the case. I believe that by publicly reporting every problem we find – regardless of whether the agency accepts our suggested solution – the OIG will maintain its integrity and independence. A good example of this concept in action can be found in the Los Angeles County Office of Independent Review (OIR). The OIR provides oversight of the Los Angeles Sheriff's Department's internal affairs unit. When the OIR sees a systemic problem, it goes to the Sheriff, points out the problem and works with the Sheriff to find an appropriate solution. The OIR then publicly reports the problem, regardless of whether the Sheriff decides to implement the changes. In my view, this promotes both collaboration and public accountability.

The fourth and final core function of the Inspector General is to keep careful track of the problems identified with the YACA entities, the solutions adopted, whether the solutions have been implemented, and whether those solutions have effectively addressed the problem. Otherwise, the public will see the same problems occurring on a cyclical basis and corrections will not have learned from its mistakes. For example, I was troubled to learn that when YACA personnel were notified that the OIG planned to post its prior audits on its website, they called to ask for an advanced copy because no one could locate YACA's copy of the prior OIG audits. Of course, this occurred during the transition of leadership at YACA, but the point remains that if the OIG does not keep an account of where the work of rebuilding our correctional agencies stands, it may be lost once again. To stress the importance of this concept to OIG investigators and the YACA entities, the first formal audit I ordered was a follow-up to determine how many of the problems identified in prior audits have been addressed. This audit is already underway and the results will be published as soon as our work is completed.

2. *Do you intend for the functions of the Inspector General's office to be different from those of the previous Inspector General? If so, how?*

As noted above, prior audits by the Inspector General's office found a number of problems within YACA entities. I will continue to conduct rigorous audits, but my office will take a new direction in the areas of transparency, collaboration and follow-up. I believe the OIG must publicly report on what it finds, work with the correctional agencies to solve the problems and then closely monitor their progress until the job is done. These changes will be particularly evident in the Inspector General's newly created Bureau of Independent Review (BIR). The function of the BIR is to provide oversight of the CDC and CYA internal affairs offices and to publicly report on the findings. Based on the Los Angeles County Office of Independent Review concept, the BIR will be staffed by experts in the fields of criminal law, civil rights, investigations, public employment law and corrections. A team of experts will be assigned to each of the Northern, Central and Southern regions of CDC/CYA and will work directly with the wardens and superintendents, internal affairs investigators, administrative discipline staff and local prosecutors to improve the professionalism

and consistency of the officer discipline process. The BIR teams will seek to collaborate with these officers and administrators from the initiation of a case at the institution, through the investigation and Skelly process, to the final determination of discipline or prosecution. In the beginning, the BIR will concentrate its efforts on those cases involving felony conduct, officer involved shootings, abuse of force, the code of silence, officer integrity, retaliation and civil rights. Through its work on these matters, the BIR will begin to identify systemic problems within the CDC/CYA discipline process and work with the staff to craft long-term solutions. Irrespective of the cooperation BIR receives, it will publicly report on every investigation it oversees and on every systemic problem that it uncovers. When the BIR is fully operational, the correctional departments will be compelled to do a much better job of policing themselves and over time the public will have restored confidence in their ability to do so.

3. *If you intend to continue conducting audits, how will you decide what to audit? What is the goal of the audits?*

Under my leadership the OIG will continue to conduct audits because there is no better way to determine whether an agency's stated policies are actually being carried out in the field. The OIG is particularly well suited for this mission because it has expertise in both the general field of auditing and the particular subject matter of adult and youth corrections. As such, the OIG auditors are able to go beyond the documents to actually determine the conditions in the field and whether those conditions meet the regulations and protocols governing the administration of our correctional facilities. Another great advantage held by OIG is that our auditors are also trained investigators who have the ability, when they uncover wrongdoing in an audit, to immediately expand that audit into a criminal or administrative investigation. Conversely, a criminal or administrative investigation initiated by OIG will often uncover systemic problems that call for a statewide audit.

We will continue to perform management review audits, in which a team of auditors surveys the operations of a particular institution and then determines whether it is complying with state statutes, regulations and institutional standards. We select the institution based on a number of factors, but primarily we look for trouble spots in the correctional system. I believe that where problems have arisen in one area of an institution, it is likely indicative of poor management in other areas, such as abuse of force, civil rights violations, a poor inmate appeal process, fiscal mismanagement or program noncompliance. The goal of a management review audit is not to attack the warden or superintendent, but to provide the Governor, Legislature and the public with an independent evaluation of what is happening behind prison walls.

One inherent difficulty with these audits is that they require a large number of professional hours to complete. For example, at a large prison it may take a four-person team three months to gather the facts, evaluate compliance and make recommendations. Accordingly, I have been working with CDC Director Woodford and CYA Director Allen to develop a new program of OIG oversight of the correctional agencies' internal audit programs. Under this proposal, the OIG's experts would collaborate with the assigned correctional employees to insure that they receive the necessary training and that they adopt internal audit procedures that comply with accepted professional standards. By doing so, the directors hope to identify the worst offenders on their own and establish a baseline for evaluating their wardens and superintendents. Again, one of my top priorities is to ensure our correctional agencies do a better job policing themselves, with oversight and public reporting by the Inspector General.

Along with Management Review Audits, we will also conduct special audits and large-scale investigations. These audits are typically conducted when an OIG investigation has uncovered a systemic problem within the prison system, but may also be initiated at the request of the Governor's Office, Legislature, public interest groups or correctional administrators. These narrowly focused audits are particularly well suited to identifying waste, fraud, corruption and system-wide mismanagement.

4. *When you identify problems, mistakes or shortcomings within the correctional entities you investigate, how will your office follow up to be certain the issues have been addressed?*

In my view, effective monitoring and follow-up is extremely important. Our work in uncovering problems and collaborating to find solutions will be ultimately ineffective unless we are able to motivate the correctional agencies to fundamentally change. Because the OIG is independent of the YACA reporting structure, we have to use other tools to compel the correctional bureaucracies to implement positive change. First, our accountability system must be highly organized. It is impossible for the OIG to hold the YACA departments accountable if we have not kept careful track of our own recommendations. To accomplish this I have asked my senior employees to prepare a compliance matrix, which tracks the status of every audit, large-scale investigation and oversight recommendation. Having accomplished this, we are now auditing YACA's progress in addressing our previous findings and recommendations.

However, keeping accurate accounts and auditing progress will not be enough – we must hold the YACA departments accountable to accomplish change. At the present time, this path is clear because Secretary Hickman shares these objectives, welcomes our suggestions and has promised to implement the best practices we agree upon. Moreover, the Governor supports this effort and the Legislature is partnering with us to provide the necessary statutory framework.

In looking to the future, again I believe it is necessary for the OIG to establish a strict policy of public reporting, codified by the Legislature, which will ensure YACA's accountability to California's citizens. Only the pressure that comes from public transparency will suffice to motivate future administrations to stay the course of correctional reform. In the mean time, I will continue to use my position to work with Secretary Hickman, Director Woodford and Director Allen, both publicly and privately, to address the steps I think are necessary to right the ship. Finally, I firmly believe my office must be unrelenting in its pursuit of reform. I am personally committed to this task and I am hiring professionals who are dedicated to the cause of identifying problems and working out solutions.

5. *The previous Inspector General typically received many more complaints than his staff could investigate. How will you prioritize the complaints your staff addresses?*

This is a challenging issue because the Inspector General's Office receives approximately 5,000 complaints a year. While many of these are minor complaints, others are both serious and worthy of legitimate consideration. The difficulty, of course, is discerning one type from another and then finding the resources to address those complaints that potentially have merit. While we are continuing to study the problem, some foundational principles have already come to the surface. First, it is necessary to have an initial intake system in place that will electronically record the

pertinent information concerning the source of the information, the subjects and the nature of the complaint. While the OIG is presently utilizing a computerized case management system for this purpose, the office must begin to record more information to allow for effective trend analysis. Second, it is necessary to recruit and retain personnel with sufficient training and experience to effectively analyze the information provided and make sound decisions concerning which cases should receive our immediate attention. This process is under way. Third, the OIG has provided guidelines for prioritizing cases by the severity of the misconduct and the level of danger to the complainant, but these must be consistently reviewed and modified according to the changing dynamics within our correctional system. I am committed to taking these necessary steps.

6. *Are there additional changes in the law that you feel would be useful to you in performing your job?*

Currently SB 1342, 1352 and 1400 are working through the legislative process. These bills will provide the necessary reporting flexibility required to initiate the programs I've described while strengthening my oversight of the officer discipline system. Furthermore, these bills will increase the protection of whistleblowers and the penalties for retaliation. We will continue to identify statutory impediments as we implement our programs.

In conclusion, thank you for the opportunity to address the committee concerning my appointment to the position of Inspector General. The challenges facing our correctional system are severe, but I am convinced that by working together with all interested parties we can make a substantial and positive difference. I look forward to appearing before your committee on August 4, 2004 and addressing your questions and concerns.

Sincerely,

A handwritten signature in cursive script that reads "Matthew L. Cate".

MATTHEW L. CATE
Inspector General

CALIFORNIA LEGISLATURE

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SENATE RULES COMMITTEE

JOHN L. BURTON
CHAIRMAN

May 19, 2004

Thomas Eres
Adjutant General
State Military Forces of California
9800 Goethe Road
Sacramento, CA 95826

Dear Adjutant General Eres:

As you know, the Senate Rules Committee has scheduled a hearing on your confirmation as Adjutant General of State Military Forces of California on June 9, 2004 at 1:30 p.m. in Room 113 of the State Capitol. Prior to the hearing, we would appreciate your written responses to the questions below to help provide background material that will elevate our discussion with you.

Please respond by June 1, 2004, so committee members will have sufficient time to review the material before your confirmation hearing.

Question:

1. Please provide us with a brief statement of your goals. What do you hope to accomplish during your tenure as adjutant general?

The California National Guard's New Role

Since the terrorists attacks on the World Trade Center and the Pentagon in September 2001, the California National Guard's role has expanded and has assumed a higher profile.

Questions:

1. Please provide a detailed account of the National Guard's new responsibilities.



2. In light of the Guard's new responsibilities, do you anticipate making any changes in the management or command structure? If so, what changes will you make over the next 12 to 18 months?

War Abroad

Since 2001, a number of National Guard units around the country have been activated to help support the war on terrorism. These units have been used to replace other units within the United States, as well as units that have been directly deployed overseas.

Question:

1. How has the war in Iraq affected the California National Guard's ability to respond to emergencies in California, whether manmade or natural?

Management and State Auditor Recommendations

In July 2003, the state auditor released a report, *Terrorism Readiness: The Office of Homeland Security, Governor's Office of Emergency Services and California National Guard Need to Improve Their Readiness to Address Terrorism*. The state auditor found:

- ♦ While the California National Guard had developed an overall strategy, as well as specific plans and procedures, for its response role to terrorist events, many of the California National Guard's own objectives had yet to be accomplished.
- ♦ While most of the training performed by the California National Guard is federally funded and designed to meet its federal military mission, the Guard's Joint Operation Center is responsible for receiving requests and developing training for state missions. This Joint Operations Center has been hindered in developing training for state missions. Without proper training, the Guard's ability to respond to state missions may deteriorate.
- ♦ Terrorism readiness force protection program training was lacking in the California National Guard's Army Guard Division. Guard management had not provided guidance on implementing terrorism readiness training to these units.

The state auditor made specific recommendations regarding funding, development of guidance for training and monitoring of recruitment, and retention of California National Guard members.

Questions:

1. How has the California National Guard addressed the July 2003 recommendations of the state auditor?

May 19, 2004
Thomas Eres, Adjutant General

2. What can be done to strengthen the Guard's terrorism readiness training?
How should this training be budgeted?

Immigration and Border Patrol

The state has, in the past, used California National Guard troops to supplement border security.

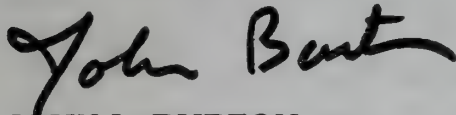
Question:

1. Given your work with the National Interagency Civil-Military Institute and its role in training drug interdiction forces, please describe your vision for what role the Guard plays in both drug control and border patrol duties.
What effect do you believe these actions will have?

Please direct your response to Nettie Sabelhaus, Rules Committee Appointments Director, Room 420, State Capitol, Sacramento, CA 95814.

Thank you for your help,

Peace and friendship,



JOHN L. BURTON

JLB:nsdm



DEPARTMENTS OF THE ARMY AND THE AIR FORCE
OFFICE OF THE ADJUTANT GENERAL
CALIFORNIA NATIONAL GUARD
9800 GOETHE ROAD - P.O. BOX 269101
SACRAMENTO, CALIFORNIA 95826-9101

June 1, 2004

Nettie Sabelhaus
Appointments Director
Senate Rules Committee
State Capitol, Room 420
Sacramento, CA 95814-4900

Dear Ms. Sabelhaus:

As requested by Senator John Burton, Chair of the Senate Rules Committee, the following are my responses to the Committee questions:

1. Please provide us with a brief statement of your goals.

My goal is to assure the California National Guard recruits and retains the personnel necessary to fill the allotted force structure designated by the Department of Defense for California. Additionally, it is my objective to achieve the highest level of education, training, equipment and readiness for the California National Guard to respond to the Governor's missions to protect the people of the State of California. It is also my objective to provide adequate forces necessary to meet emergency, disaster and catastrophic situations where military assistance to civil authority is requested.

2. What do you hope to accomplish during your tenure as adjutant general?

The California National Guard is an all-volunteer military force that consists of highly motivated and patriotic individuals who chose military service as a form of public service to the nation and people of California. Each service member comes with a family, employer and a community that deserves recognition and support. Each service member expects professionalism and high quality leadership in training and during mobilization. My vision is to create a fully integrated team with a shared vision and responsibility to preserve, protect and defend the people of this state. It is the notion of team building and sustainment that will assure good order discipline and esprit de corps.

3. Please provide a detailed account of the National Guard's new responsibilities.

Prior to the attacks on the World Trade Center in New York and the Pentagon in September 2001, the Armed Forces of the United States was developing doctrine and policies to meet a new appreciation of the public in homeland security and homeland defense. These emerging doctrines and policies were re-casting the roles, mission, jurisdictions and purview of the National Guard. The attacks quickly propelled the national and state debate to view the National

JUN 02 2004

Guard as not only a force multiplier assisting civil authority but also to have a primary role on the front lines of homeland security and homeland defense.

With the creation of U.S. Northern Command as a Combatant Command with Department of Defense in homeland defense, the National Guard is now looked at as a forward deployed military force in each state, capable of meeting threats to national security in that state. Consequently, in addition to the role of the National Guard to train and respond to mobilization requests for foreign duty, most recently in Iraq and Afghanistan, the National Guard must train and be prepared to protect the nation as a force within each state.

In addition, the emerging national policy recognizes the dual role of the National Guard as a state force under the authority of the Governor and the Constitution and Statutes of California. That role remains, and is of the highest priority, subject to federal mobilizations. The National Guard of California will continue to provide both a "stability force" (the strength of "boots on the ground" common task trained) and a "specialty force" (unique equipment, training and experience to add to the all-risk response requirements of civil authorities).

A significant challenge created by the emerging doctrine and enhanced missions in homeland security is to make sure the force is fully and properly resourced to meet all missions. Much of the resourcing will continue to come from the federal government and it is important that every federal dollar is fully leveraged to enhance the capability and capacity of the California National Guard to respond to any state emergency.

4. In light of the Guard's new responsibilities, do you anticipate making any changes in the management or command structure?

Most definitely. At the end of the day my most pressing imperative is to have the right force available and mobilized to meet any state emergency, disaster, or catastrophe at the call of the Governor. Therefore, it is important to structure the field commands to better respond to the Governor.

A force in the field must be fully supported by the headquarters with a management and command structure that is knowledgeable, experienced, and with a total focus on supporting the deployed force in both a federal and state status. Consequently, a primary challenge will be to refine the "corporate culture" of the headquarters to keep the perspective on supporting the troops in the field. It is the troops in the field that justify the positions in the headquarters.

5. If so, what changes will you make over the next 12 to 18 months?

I have launched a number of initiatives designed to realign the California National Guard with the emerging realities, post September 2001, Afghanistan, Iraq, the asymmetric threat of terrorism, weapons of mass destruction, mass disruption and mass damage.

The 49th Combat Support Command has been designated the general officer command for immediate response to requests to support civil authority. Within that command, I have

relocated the Civil Support Teams and the Counterdrug Task Force under that Command. Upon the occurrence of a major response request, the Commander of the 49th Combat Support Command and one Civil Support Team will launch to the area of concern and establish a forward command presence to be available to the civil authority in charge of the incident. The Counterdrug Task Force will be the initial rapid reaction force.

At the headquarters, I have created an Office of Military Assistance to Civil Authority that reports directly to me. In the office, I have assigned six functions: (1) Operations Center; (2) Homeland Security (intra state); (3) Homeland Defense (U.S. Northern Command and other federal agency coordination); (4) Information and Intelligence; (5) Liaison to all inter and intra agency players that are involved in emergency support functions; and (6) a doctrine and homeland defense – homeland security development office.

In addition, revised contingency planning is underway to keep the California National Guard relevant to all of California's public safety entities, local, regional and statewide. The test of the relevancy will be an enhanced program of participation in training and exercises, with communication and coordination on a continuing basis.

6. How has the war in Iraq affected the California National Guard's ability to respond to emergencies in California, whether manmade or natural?

Certainly the war in Iraq involves a significant commitment of California National Guard forces. That commitment is dynamic with a combination of forces returning home, those currently in final train-up immediately prior to mobilization and those currently deployed.

During existing combat operations overseas, California maintains a fully deployable and ready force to respond to the Governor's requirements. Of course, these requirements assume an all-hazards – all-risk spectrum of need. Additionally, there are other resources located in other states that can be requested to augment the California National Guard if needed to meet specific contingencies. The other state National Guards can be requested in such a manner that they would operate under the California Command and central structure.

It is also possible to look at federal assistance to come into California when necessary. I have been working with U.S. Northern Command and the National Guard Bureau in Washington D.C. to assure a seamless process to access federal resources.

7. How has the California National Guard addressed the July 2003 recommendations of the state auditor?

The following Military Department "one-year responses" are initially provided for each of the five auditor recommendations included in the BSA audit report number 2002-117.

Auditor Recommendation No. 1:

Determine the most critical training its Joint Operations Center staff need to fulfill their duties and then allocate existing funding or seek the needed funding to provide the training documenting why it is needed.

Military Department Response:

Personnel within the directorate are continuing to take no-cost online emergency preparedness courses. In addition, the Joint Operations Center's Familiarization and Certification Course Management Plan and Program of Instruction (CMP/POI) has been published in compact disk (CD) form. Over 400 CDs have been distributed to the major commands of the California National Guard.

Auditor Recommendation No. 2:

Develop guidance for its Army Guard Division to implement its terrorism readiness force protection program.

Military Department Response:

The Army Division Command Training Guidance (CTG) for Training Year 2005-2006 was published on 15 March 2004 with Operational Plan 05-01-01 (Nexus) published on 28 March 2004, in support of the CTG. The base guidance and subsequent supporting operation order provides guidance for Army Division organizations to implement their terrorism readiness force protection programs.

Auditor Recommendation No. 3:

Ensure that it's Joint Staff Division, including the Joint Operations Center, share best practices between its Air Guard and Army Guard divisions.

Military Department Response:

The Chiefs of Staff for Army, Air and Joint Divisions continue to meet once a week to brief the Chief of Staff for the California National Guard. "Best Practices" is now a regular part of the agenda to be shared among the Divisions. Due to the large number of guard members being mobilized in both the Air and Army Divisions throughout the state in recent months, the sharing of best practices continues to improve our operating capability.

Auditor Recommendation No. 4:

Use the recent awarded funds from OHS to identify the type and frequency of state-level exercises responding to terrorist events that the State needs to be adequately prepared. The National Guard should then provide the exercises it has identified.

Military Department Response:

The California National Guard Homeland Security Exercise Team received funding and spending authority in December 2003. The team has coordinated and executed many exercises throughout the state. These exercises include: Stanislaus County Agro-Terrorism Exercise, Sacramento County Multi-Event Exercise and Determined Promise 2004 for Los Angeles Region and Central California. A statewide exercise for California is planned for 2004, along with two exercises involving California chemical manufacturing facilities.

Auditor Recommendation No. 5:

The National Guard should continue to monitor the results of its recruiting and retention efforts. If those efforts begin to adversely affect its ability to respond to missions, it should seek legislative or other remedies to address its problems.

Military Department Response:

The Recruiting Command is continuing to monitor the results of the recruiting and retention efforts. The Commander of the California Army National Guard monitors the recruiting and retention reports on a monthly basis. We are requesting additional federal funds from National Guard Bureau this fiscal year to assist our recruiting and retention efforts.

8. What can be done to strengthen the Guard's terrorism training?

The key to strengthening the Guard's terrorism training is to leverage each training dollar so as to cross train all Guard members in those skills and proficiencies necessary to provide those capabilities and capacity necessary to meet both the federal and state mission. The common tasks on which Guard members regularly train provide the competencies necessary to operate in an all-hazards environment.

An act of terrorism that would require the skills and equipment of the Guard are most likely to be similar to those that are presented in current federal deployments. It is important these skills be frequently tested and the unique equipment fully maintained.

A significant part of strengthening the training is to enhance the cultural mindset of all Guard members to a new reality of asymmetric threat, the need for situational awareness, a sense of threat, vulnerability and preventive actions that are now a part of our everyday lives. All Guard training will include ongoing cross training in the new high-risk environment.

9. How should this training be budgeted?

The California National Guard budget consists of approximately 95% of federal funds to educate, train and equip the force to meet federal missions. The training programs currently in place contain the cross training of those skills required for responses to a terrorist incident.

These training objectives will continue to be revised so that whenever possible they are relevant to state missions.

Funds are also being made available to the State of California through the Department of Homeland Security and other federal agencies and departments. The portion of these funds allocated to the Guard will likewise be leveraged to provide the appropriate education, training, equipment and exercises necessary to keep the Guard proficient and ready for all-hazard, all-risk requirements to support civil authority.

Additionally, the State of California provides approximately 5% of the total annual costs of maintaining the readiness of the Guard and those resources will be leveraged to enhance readiness.

Finally, there are opportunities for combined and joint training in an inter and intra agency environment. California is blessed to have a strong and viable professional relationship with all emergency responders located within the State, including federal, state and local agencies and departments. We all look for opportunities for mutual support and training opportunities whenever and wherever resources become available. Opportunities are also presented in the day-to-day operations of our respective entities that further enhance interdependent capabilities.

10. Please describe your vision for what role the Guard plays in both drug control and border patrol duties.

My vision is to continue to provide comprehensive and high quality support to Law Enforcement Agencies (LEAs) and Community Based Organizations and to lead the way in this vital state and national program. For the last fifteen years the California National Guard's role in drug control and border security has been through our Joint Counterdrug Task Force (CDTF). The CDTF enhances law enforcement effectiveness by acting as a force multiplier, conducting missions approved by the Governor, the Attorney General, the Adjutant General, and military regulation/policy guidance.

Specifically, along the Southwest border the CDTF routinely provides support to the U.S. Coast Guard (USCG), the Bureau of Customs and Border Protection (CBP), and Bureau Immigration and Customs Enforcement (ICE) for the following missions:

- flying Forward Looking Infa-Red (FLIR) and photo aviation missions
- manning ground observation/listening posts along the border and shoreline
- staffing watches at the Joint Harbor Operations Center (USCG and ICE) for maritime interdiction pertaining to smuggling activities
- staffing the CBP Low Light Operations Center in El Centro using thermal imaging systems for illegal traffic interdiction
- employing a Mobile Vehicle and Cargo Inspection System Truck at the Otay Mesa Port of Entry (POE)

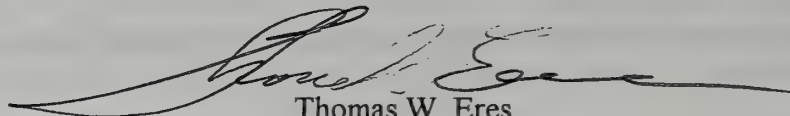
Of note, following September 11, 2001, the California National Guard placed approximately 350 additional Soldiers at the principal land POEs for approximately six months to support CBP in counterdrug/terrorism operations and illegal immigration. Additionally, since 1989, Counterdrug engineers are building a barrier system (primary fence, all-weather road, drainage, and secondary fence where directed) along the border in support of CBP to restrict the drug flow into the state and nation.

11. What effect do you believe these actions will have?

Everyday, over 300 California National Guard Soldiers and Airmen support the Counterdrug mission in the state of California fully funded by the federal government. We continue to support LEAs as they reduce drug-related crime and violence in California. Our support enables LEAs to devote the efforts of their officers toward enforcing drug control laws. In the last six calendar years, the CNG CDTF assisted in seizing \$12.7 billion in drugs.

If you require more information or have additional questions, please feel free to contact me at 916-854-3500.

Respectfully,

A handwritten signature in black ink, appearing to read "Thomas W. Eres", with a long horizontal flourish extending to the right.

Thomas W. Eres
Major General
The Adjutant General

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APPOINTMENTS DIRECTOR

SENATE RULES COMMITTEE

JOHN L. BURTON
CHAIRMAN

June 2, 2004

Jerry Moss
362 Copa de Oro
Los Angeles, CA 90077

Dear Mr. Moss:

As you know, the Senate Rules Committee will be conducting a confirmation hearing on your appointment to the Horse Racing Board. You will not be required to appear at the hearing in person, but we would appreciate your written responses to the questions below prior to the hearing. Please respond by June 22nd.

1. Please provide a brief statement of goals. What do you hope to accomplish during your term on the Horse Racing Board?
2. How do you assess the future of horse racing in California? Is its financial future dependent on its ability to compete with gaming competitors?
3. What role should marketing play in the effort to increase attendance and revenues?
4. How extensive and serious is the illegal use of high-performance drugs on horses within the racing industry? What is the appropriate role of the Horse Racing Board in addressing this issue?

Please contact Nettie Sabelhaus, Senate Rules Committee Appointments Director, if you have any questions or need additional information. We look forward to hearing from you.

Peace and friendship,

A handwritten signature in dark ink that reads "John Burton".

JOHN L. BURTON

JLB:nscm



Ann & Jerry Moss

June 18, 2004

John L. Burton
Chairman
Senate Rules Committee
State Capitol
Room 420
Sacramento, CA 95814-4900

Dear Senator Burton,

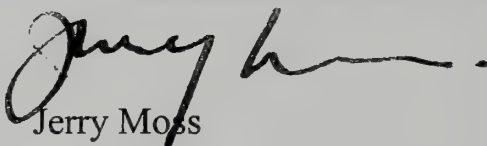
Enclosed, please find my answers to the questions posed in your letter to me of June 2.

I believe I've responded to the best of my knowledge at this particular time appropriate with my status as a potential member of the CHRB.

Should you or the Senate Rules Committee be interested in any follow-up discussion, please call. Otherwise, I'll look forward to seeing you whenever convenience allows.

In the meantime, thanks for all your help.

Best regards,


Jerry Moss

JM/dr

Dottie Ingordo *racing manager*

421 North Beverly Drive, Suite 260. Beverly Hills. California 90210 phone: (626) 446 2254 fax: (626) 447 0205

cell: (818) 400 3639 email: dingordo@aol.com



Ann & Jerry Moss

- 1) I am honored at the prospect of being accepted to serve on the California Horse Racing Board. I have enjoyed racing for almost 35 years as an owner and a breeder and I deeply appreciate the opportunity to be of some service to the industry that's given me and my family some of our most exhilarating times together. What I hope to see accomplished during my term is for the industry to have a greater sense of unity, reasonable rewards for its investors, and remove any perception of unfair practices by any of its participants.
- 2) The future for racing in California does not look very promising at the present time. With the exception of the Del Mar meet and the occasional Breeder's Cup Day (hosted by a California track) all important signs are down resulting in shrinking fields and smaller purses especially at the essential Hollywood Park and Santa Anita meetings. Though over-all wagering handle is up, most of this is from off-track betting, which is becoming even more diverse, and only slightly benefits the horsemen. While I don't personally believe slot machines are "the answer" to our current problems, I believe their implementation at certain race tracks in the state will help us compete with other gaming competitors. They (the slots) will most importantly introduce a new generation to the sport of racing as well as have the immediate effect of raising purses for the horsemen. However, I also believe that a comprehensive plan is required to more satisfactorily compete with state-run lottery's, other sporting events and the various gambling locations to bring additional people to the race tracks to more fully understand, appreciate and thoroughly enjoy the sport of horse racing.

Dottie Ingordo *racing manager*

421 North Beverly Drive, Suite 260, Beverly Hills, California 90210 phone: (626) 446 2254 fax: (626) 447 0205
cell: (818) 400 3639 email: dingordo@aol.com



Ann & Jerry Moss

- 3) All the above will need a top notch marketing effort to reach hundreds of thousands of potential race-goers. In this regard, I don't believe we've yet to put our best foot forward. I personally believe a greater effort must be extended to college-age enthusiasts. We need to demystify the Daily Racing Form. Fans need to more easily understand the information provided by the Form so that they can wager with a certain degree of "inside" intelligence. More attention has to be given to acquiring more television coverage of important races and the personalities that thrive in our sport. I support the view, as well, that race tracks should be destinations for more than racing but also for seeing live music on occasion or other activities that make people want to visit and bring friends. However, we also need to remember that race tracks are elements of the free enterprise system. Therefore, we can encourage, but really only hope that Churchill Downs (Hollywood Park) and the Magna Corporation (Santa Anita, Golden Gate Fields and Bay Meadows) will make the right marketing decisions that will result in benefits for the entire industry.

- 4) As regards the illegal use of high performance drugs in the racing community, I personally could not point my finger in any particular direction. Does the perception exist that this practice is currently taking place? Yes, I believe it does. When I'm standing in a track's public restroom after a race hearing fans openly talk of a successful dose of "Joy Juice" bringing home some long shot, I feel in my heart and soul that we have to do everything possible to put an end to these kinds of conversations.

Dottie Ingordo *racing manager*

421 North Beverly Drive, Suite 260, Beverly Hills, California 90210 phone: (626) 446 2254 fax: (626) 447 0205

cell: (818) 400 3639 email: dingordo@aol.com



Ann & Jerry Moss

I believe the CHRB should hire a specific "Master of Security." This person could be a former steward, retired judge or law enforcement official. But, most importantly, they will need to know precisely what to look for in regards to possible infractions of current rules by trainers, vets or whoever comes close to a racehorse in the days and hours before a race. I believe this problem is significant enough to have the holder of this important position report to the Board at every official meeting. He (or she) should be empowered to hire inspectors to be approved by the Board. Other devices, including cameras, should be employed as advised by the inspectors and the track stewards. Every "lead" of a possible infraction should be fully investigated by these inspectors. The top trainers at each track should also undergo "earned surveillance" whereby their success can be unconditionally celebrated because of their talent rather than their use of a tube or syringe. I believe the laws governing the mere use of drugs need a complete review. To make things even more complicated, rules vary from state to state. We desperately need a national plan of what's allowed and what isn't. Most of the time, the labs won't pick up a positive drug sample unless they specifically search for that particular drug. Whether it be "perception" or otherwise, our industry has a problem.

But I also believe that should the CHRB take the appropriate and immediate steps, we can continue to hold the racing public's trust and make our sport more popular and profitable for all concerned.

Dottie Ingordo *racing manager*

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SENATOR ROSS JOHNSON, Vice Chair

SENATOR JAMES BRULTE

SENATOR BETTY KARNETTE

SENATOR GLORIA ROMERO

STAFF PRESENT

GREG SCHMIDT, Executive Officer

PAT WEBB, Committee Secretary

NETTIE SABELHAUS, Consultant on Governor's Appointments

BILL BAILEY, Consultant to SENATOR JOHNSON

CHRIS BURNS, Consultant to SENATOR BRULTE

TIM SHELLEY, Consultant to SENATOR KARNETTE

CARY RUDMAN, Consultant to SENATOR ROMERO

ALSO PRESENT

VICTORIA L. BRADSHAW, Secretary
Labor and Workforce Development Agency

BOB BALGENORTH, President
State Building and Construction Trades Council

ANGIE WEI
California Labor Federation, AFL-CIO

BARRY BROAD
Teamsters, Machinists, Unite Here!

JULIANNE BROYLES
California Chambers of Commerce

SCOTT WETCH
California State Pipe Trades Council
State Association of Electrical Workers
Western States Council of Sheetmetal Workers

1 MICHAEL MICCICHE

La Cooperativa Campesina de California

2 DANA NICHOL

3 Pacific Association of Building Service Contractors

4 CARLOS LOPEZ

5 Center for Employment Training

6 PATRICK HENNING

State Council of Laborers

7 TIM CREMINS

8 Operating Engineers

9 DANNY CURTIN

10 California Conference of Carpenters

11 JOSE H. MILLAN, Deputy Secretary

12 Labor and Workforce Development Agency

13 THOMAS M. JOHNSON, Secretary

14 Veterans Affairs

15 SENATOR WESLEY CHESBRO

16 SENATOR WILLIAM MORROW

17 SANFORD E. ROSS

18 Military Order of the Purple Heart

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Veterans Home, Yountville

20 DR. DAVID M. SALOPEK, Chair

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22 CONSTANCE HARRISON

23 Women's Army Corps Veterans Association

24 JOHN LOWE, State Adjutant

Veterans of Foreign Wars of the United States

25 RICHARD MARTINEZ, Sergeant Major Retired, Commander

26 American GI Forum

27 MIKE SLATER, Legislative Officer

28 Department of California Marine Corps League

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California Institute for Nursing and Health Care

2 MIKE BOTULA

3 California DVBE Alliance

4 ANGEL G. LUEVANO, State Director

5 League of United Latin American Citizens, LULAC

6 BARBARA ROSS

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AMVETS of California, Post Number One, Sacramento

9 DANA NICHOL

10 California Association of Veteran Service Officers

California State Commanders Veterans Council

11 Armed Forces Retirees Association of California

12 RON MARKARIAN, President

13 Central California Chapter, Association of the U.S. Army

14 MAJOR FERNANDO GANDARA, Employee and Union Steward

15 Barstow Veterans Home

16 CHARLENE R. ZETTEL, Director

Department of Consumer Affairs

17 SENATOR DEDE ALPERT

18 GARY COOPER

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P-R-O-C-E-E-D-I-N-G-S

--ooOoo--

CHAIRMAN BURTON: Vicky Bradshaw, Secretary of Labor.

Did you bring your mother with you?

MS. BRADSHAW: No, but I brought my daughter.

CHAIRMAN BURTON: That's all right. Introduce her.

MS. BRADSHAW: My daughter, Kristin, and my husband, David.

CHAIRMAN BURTON: Welcome.

MS. BRADSHAW: Thank you for hearing me today. I know you have a number of people to hear, so I will be brief.

CHAIRMAN BURTON: We've got all the time in the world.

MS. BRADSHAW: I did want to talk about a couple priorities of the Agency.

First and foremost is the vigorous enforcement of the California Labor and Occupational Safety and Health laws. We feel it's very important to focus on the bad guys so we can maximize what limited resources we do have, because we're interested in putting the bad guys out of business. We're focusing primarily on three areas, and that is combating the underground economy, focusing enforcement in those industries that have a long history of labor law violations, but also attract large numbers of vulnerable employees, and effectively enforcing the Public Works laws.

Not only are we doing enforcement, but we also

1 are reaching out to employers and worker groups to make sure
2 that they understand their rights and responsibilities under the
3 law. So we can maximize our limited resources, we're leveraging
4 those by coordinating our activities with other state, local,
5 and federal government agencies that have either overlapping or
6 complimenting jurisdictions.

7 The other area that's very important to us is
8 building a coordinated workforce development system that allows
9 California workers to compete in an ever-changing economy. And
10 one of our first things that we did along those lines was
11 establish three policy priorities so that we can make sure that
12 our discretionary dollars would go towards that goal. The first
13 is to build high wage, high skilled, high growth, stable jobs;
14 the kind of jobs most Californians want, and the kind of jobs
15 communities want for their local areas.

16 The second is to focus dollars at the bottom of
17 the career ladder, where people have barriers, whether it be
18 age, disability, language, youth, lack of education, whatever it
19 is, to give them the skills so that they can, in fact, move up
20 the career ladder to get beyond the no-future type of jobs.

21 And the third area is occupations that have
22 statewide concerns, such as nursing. It doesn't really matter
23 who you are, nursing is an important area for all of us. And
24 important in doing that is coordinating all the Workforce
25 Development resources in California towards common goals, so
26 we've been working with all the players in the workforce
27 development arena, and in California there are a lot of those.

28 The third area is in our benefit systems and our

1 adjudication systems. To that, we're working to streamline the
2 benefit delivery systems, making sure that we can realize all
3 the savings that were enacted through recent legislation to make
4 sure that we create stable benefit systems, financial systems,
5 for those programs, to make sure we're communicating well with
6 both the employee and the employer communities as to their
7 rights and responsibilities, and to make sure that we drive as
8 much program efficiency as possible.

9 I feel that I'm qualified for this position
10 because I have good working experience in all those areas, that
11 I know all the stakeholders as well as the people that are
12 interested in those areas, and have good working relationships
13 with them, and I have appreciated the time that I've served in
14 it, both as Acting Secretary and now as Secretary.

15 I look forward to hopefully continuing making a
16 contribution. Thank you, and I'd be happy to answer any
17 questions.

18 CHAIRMAN BURTON: Basically the policy really
19 starts from the top; doesn't it?

20 In other words, how much leeway do you have as
21 far as going on a policy, or do you have to move it up the
22 chain? How does that work?

23 I remember one of your predecessors who decided
24 that the banks were violating the eight-hour law when they had
25 their employees go out, and I don't know if it was after work,
26 or at lunch -- cleaning the ATMs. When she issued that order,
27 she was out of a job within about a week under the Davis
28 administration.

1 How much autonomy, or whatever, does someone
2 have? I know that you're responsible to the appointing power,
3 but how does enforcement work?

4 MS. BRADSHAW: Well, we have a great deal of
5 leeway. The administration's position is, if it's the law, we
6 enforce the law.

7 For example, right in the middle of the work comp
8 discussions, we were still enforcing the failure for employers
9 to have work comp, and we were using the press to highlight the
10 fact that that was the current system.

11 CHAIRMAN BURTON: That wasn't even at issue in
12 the workers comp discussions.

13 MS. BRADSHAW: No, but I mean, it was -- we were
14 not afraid to go out on what was an issue and make sure that
15 everybody knew that we were still enforcing the law. That it
16 was still in force.

17 We have most recently, in fact last week we
18 handed out three quarters of a million dollars in checks to
19 garment workers after we shut down that business in coordination
20 with the United States Department of Labor, and we got nothing
21 but plaudits from the administration.

22 So, they have been nothing but supportive in our
23 efforts to enforce the law, particularly laws at the minimum
24 labor standards.

25 CHAIRMAN BURTON: Did you have put input into the
26 CPR? Did you talk to whomever those people were?

27 MS. BRADSHAW: I had several discussions with
28 them. I had them add nothing in. I asked them to take several

1 things out. I made suggestions.

2 CHAIRMAN BURTON: Do you have a position on
3 merging the Appeals, Comp, UI, and OSHA appeals into one group?

4 MS. BRADSHAW: Well, I think that it makes some
5 sense to put functions together. And perhaps -- I don't believe
6 that necessarily the elimination of boards is the answer. I
7 think perhaps having them under so that they can share
8 administrative staff or where there's an overload in one area,
9 we can move staff to that area, or they can move staff to that
10 area. But I don't necessarily believe eliminating the appeals
11 process creates the right due process.

12 CHAIRMAN BURTON: I guess they're three separate
13 areas of expertise. They could probably share clerical staff,
14 but there are people and I guess Tom Rankin comes to mind, maybe
15 somebody from the Chamber, and my brother comes to mind, that
16 new Comp, UI, and OSHA stuff, but I don't know.

17 What's your feeling on eliminating the Employment
18 Training Panel?

19 MS. BRADSHAW: I have a particular fondness for
20 the Employment Training Panel. I think they are very helpful in
21 the economic development arena.

22 Not that I don't think part of the Employment
23 Training Panel can't be reformatted, but I think it's helpful
24 having outside eyes look at the project.

25 CHAIRMAN BURTON: There's probably nothing that
26 can't be improved upon, as opposed to throwing the baby out with
27 the bath water.

28 How about having Fair Employment and Housing put

1 into Labor and Economic Development?

2 MS. BRADSHAW: I think that there are -- the
3 Labor Agency absent the Fair Employment and Housing has a number
4 of divisions that do discrimination complaints, whether it be
5 Cal-OSHA complaints or workforce protection complaints. So, it
6 is not -- discrimination complaints is not a function that is
7 foreign to the Labor Agency. In fact, perhaps they could help
8 streamline some of our particular discrimination complaint
9 processes.

10 CHAIRMAN BURTON: Where did you take your
11 lessons?

12 MS. BRADSHAW: Where did I what?

13 CHAIRMAN BURTON: Take your lessons --

14 MS. BRADSHAW: What agencies were I in?

15 CHAIRMAN BURTON: Where did you take your
16 lessons? You're tap dancing.

17 [Laughter.]

18 MS. BRADSHAW: That's why my mother's not here.

19 CHAIRMAN BURTON: What would you suggest, because
20 this clearly would be something that would have to either go
21 from you up to the Governor and down, but the funding crisis in
22 the UI Fund?

23 MS. BRADSHAW: We do have a structural deficit in
24 the UI program. It is, fortunately, not quite as serious as it
25 was a year ago, however it doesn't eliminate the fact that there
26 is --

27 CHAIRMAN BURTON: Why is that?

28 MS. BRADSHAW: Because in December, it was -- for

1 this fiscal year it was forecast at two billion. Right now,
2 we're forecasting not to have a deficit by December 31st, and
3 that is because the number of claims and the duration of the
4 claims has fallen considerably.

5 We are forecasting a deficit --

6 CHAIRMAN BURTON: Is that because the time for
7 claims has run out or what?

8 MS. BRADSHAW: No, the duration. People are
9 finding jobs faster so they're not on unemployment insurance,
10 and the number of claims actually being filed has diminished
11 from actually where it was a year ago.

12 CHAIRMAN BURTON: Do you have any idea of, like,
13 they can't file a claim, but like first-time unemployed, which
14 would be spouses but primarily probably women, either divorced
15 or whatever, entering or re-entering the workforce, or high
16 school grads or even college grads, but people, first time in
17 the workforce that are unemployed but they don't register under
18 any -- they register under a certain statistic, but they don't
19 register under this because they haven't gone and filed for UI
20 because they're ineligible.

21 How do we count those? Do we count those? I
22 can't remember what the term is. There was a term that covered
23 all unemployed.

24 MS. BRADSHAW: The number that are unemployed
25 aren't necessarily the same as the number who have actually
26 filed claims. You, in fact, may have people --

27 CHAIRMAN BURTON: Right, we know that.

28 MS. BRADSHAW: You may have people who have a

1 series of job losses who may not file until the third or the
2 fourth job loss.

3 CHAIRMAN BURTON: Or a first time.

4 I mean, do they calculate that? Can they figure
5 that? Do they guess that?

6 MS. BRADSHAW: I'm sure they probably could. I
7 mean, somebody who's only been in the job a very short period of
8 time won't necessarily have a claim because they haven't been in
9 the workforce. And you're right, that wouldn't show.

10 CHAIRMAN BURTON: First time job seekers don't
11 have them.

12 MS. BRADSHAW: Right.

13 CHAIRMAN BURTON: Senator Johnson.

14 SENATOR JOHNSON: No questions, Mr. Chairman.

15 CHAIRMAN BURTON: Senator Romero.

16 SENATOR ROMERO: Thank you.

17 There's been quite a bit of discussion about the
18 minimum wage in California. And to me, some of the statistics
19 are rather striking: 50 percent of minimum wage earners in
20 California are women. These are not women who work part-time;
21 these are women who work at least 35 hours a week.

22 In addition to that, 58 percent of minimum wage
23 workers are not teenagers. These are adults, 25 years and
24 older.

25 Of course, there's legislation going through this
26 year to try to raise the minimum wage. Other states have put
27 this on the ballot.

28 I'd like to hear your views in terms of the

1 adequacy of the minimum wage in California, and how it might
2 affect essentially the demographics of California: minority
3 group workers, women workers. This is the workforce of
4 California.

5 I'd like to hear your views on the minimum wage,
6 and whether or not we need to bring about a change in
7 California.

8 MS. BRADSHAW: Sure.

9 Whether or not the minimum wage is adequate
10 really depends on the group that you're talking about. The one
11 I like to concentrate on are the adults who are in the middle of
12 their careers or in their careers and still at minimum wage
13 jobs, as opposed to low wage jobs, which I believe the
14 California Budget Project accounts for at 7.75 as opposed to the
15 minimum wage, which is 6.75.

16 Now, the people that are there, clearly that's an
17 adequacy problem. I mean, I think that if you're in the middle
18 of your career and still at minimum wage, there are probably
19 barriers there that are preventing you from moving up. And
20 where we've been putting our focus is trying to get those people
21 the skills to break beyond those barriers. That's why we've
22 dedicated -- I think it's 53 percent of our discretionary
23 money's focused on that group, to help them move up the career
24 ladder so they aren't in the dead end, no-future kind of jobs.

25 Minimum wage is less of a concern, obviously, if
26 you're new into the workforce, or you're retired and this is a
27 job as an activity.

28 And the total number of people that currently are

1 at minimum wage is, I think, around 7 percent of the entire
2 California workforce is at minimum wage.

3 So, I think the adequacy is clearly a problem at
4 the adult who is working in their mid-life who has other
5 barriers. And I think part of what we're trying to do is get
6 those barriers broken so that they in fact can move up the
7 career ladder.

8 SENATOR ROMERO: Do you have any specific
9 programs or outreach for women? I mean, 50 percent are women.
10 These are women working 35 hours or more.

11 MS. BRADSHAW: Right. We have -- we've started a
12 series of low wage worker forums, the first of which was in
13 Fresno. There's another one going to be held in the next couple
14 weeks, I believe, in Los Angeles specifically reaching out to
15 low wage workers to ensure that they know all the things that
16 are out there to help them move beyond where they are now. Or,
17 if they're having a problem, whether it be with an enforcement
18 or whatever, to get them connected to the people who can
19 actually help them.

20 SENATOR ROMERO: Do you have a position on AB
21 2832, the Lieber bill?

22 MS. BRADSHAW: I think the administration has
23 been clear from the beginning that we view everything in light
24 of job creation because that's the Governor's number one goal,
25 is creating good quality jobs. I think that will be viewed --

26 CHAIRMAN BURTON: In addition to eliminating
27 15,000 in the CPR?

28 That's a rhetorical question.

1 MS. BRADSHAW: I think it would be viewed in
2 light of that, just as all other pieces of legislation are
3 viewed, in light of what the impact would be on job creation.

4 SENATOR ROMERO: And I can understand that.

5 I think that finally I would just say that, yeah,
6 we all want to see the development of jobs in California.

7 I really do hope that as we work together, that
8 we can not only develop jobs, but really develop jobs that pay
9 something, that enable 50 percent of women in the labor force,
10 58 percent of people over the age of 25 to not just have a job,
11 but to have a livable wage job, a job in which they can support
12 a family, buy a home, have health care, et cetera, et cetera.

13 So that, I hope, as we go forward, would be a
14 goal that we can work on together.

15 MS. BRADSHAW: I couldn't agree with you more.

16 SENATOR ROMERO: Thank you.

17 CHAIRMAN BURTON: Senator Karnette.

18 SENATOR KARNETTE: You mentioned some of the jobs
19 that we need, and one of them we talked about earlier was
20 nursing.

21 I don't know that you can do anything about that,
22 but I think that's a very serious problem we have that relates
23 directly to health care.

24 Do you have any suggestions as to how to get more
25 people into nursing?

26 MS. BRADSHAW: Actually, we're doing a couple of
27 things. Right now, about 44 percent of the discretionary money
28 is going into developing nursing as an occupation, various

1 nursing jobs.

2 One of the problems we have, though, is that
3 there is a capacity problem. You know, you can have funding to
4 train nurses, but if you don't have the capacity to train them,
5 then we run into kind of a road block. So, we have been working
6 with the community colleges, the Office of the Secretary of
7 Education, the Department of Education, to see what we can do to
8 expedite the ability of creating facilities that can help train
9 nurses and other health care professionals so that we can get
10 out of backlog that we currently have.

11 SENATOR KARNETTE: Thank you.

12 CHAIRMAN BURTON: Getting back to that UI thing
13 for a minute.

14 A year ago, or something, it was like it was in
15 the toilet. Everybody was running around, and the employers
16 wanted to cut benefits, labor wanted to increase premiums.

17 Now, somehow, that more or less went away?

18 MS. BRADSHAW: No. The magnitude of the
19 immediate problem went away.

20 We had to borrow from the federal government to
21 the tune of 1.4 million. We've repaid back what we borrowed so
22 far, and there's a great possibility we won't be borrowing
23 through the end of this calendar year. However, the projections
24 anticipate having to borrow at the end of next year. So, we
25 still have a problem, and we have to -- there are four moving
26 parts, which I won't go into, but we do have to address the
27 total structural problem.

28 To that end, we have been working with both labor

1 and employers so that everybody fully understands how
2 complicated it is, and the ramifications of what seems like
3 pretty easy answers.

4 CHAIRMAN BURTON: Witnesses in support?

5 Mr. Balgenorth.

6 MR. BALGENORTH: Thank you, Mr. Chairman,
7 Commissioners. Bob Balgenorth, President of the State Building
8 and Construction Trades Council of California.

9 We're here in support of Vicky Bradshaw. We
10 think that she's done an excellent job while she's been there.
11 We think that she has demonstrated the ability to work with all
12 groups, and more importantly, to enforce the law in a -- which
13 is incredibly important to us.

14 Our entire council stands in support of her.

15 CHAIRMAN BURTON: Thank you.

16 MS. WEI: Mr. Chair and Members, Angie Wei,
17 California Labor Federation. I'm here in support of
18 Ms. Bradshaw. She's been able to protect the labor law
19 enforcement budget. She's brought justice to the enslaved Thai
20 garment workers in the past. She brought back wages to garment
21 workers just a few weeks ago.

22 We're not always going to agree, but we're
23 hopeful and confident we'll get a fair shake at it.

24 MR. BROAD: Mr. Chairman and Members, Barry Broad
25 on behalf of the Teamsters, Machinists, Unite Here! They're
26 combined now.

27 CHAIRMAN BURTON: The Machinists and who are
28 combined?

1 MR. BROAD: No, the Unite and Here is combined,
2 so now it's Unite Here! with an exclamation mark. It's very
3 cute, actually.

4 CHAIRMAN BURTON: You're knocking my parent
5 union.

6 MR. BROAD: Your union is my union.

7 Anyway, we're here in support of Ms. Bradshaw.
8 I've worked with her personally over the last 15 years, and I've
9 always found her to be a total straight shooter.

10 Obviously, it's a Republican administration.
11 We're not always going to agree, but she is as honest as the day
12 is long, and she's fair, and she's going to hear our case and do
13 what she needs to do. But we can talk to her, and I think she's
14 dedicated to strong enforcement.

15 Urge your aye vote.

16 CHAIRMAN BURTON: Next.

17 MS. BROYLES: Good afternoon, Mr. Chairman,
18 Senators. Julianne Broyles from the California Chamber of
19 Commerce here also in support of Victoria Bradshaw's
20 confirmation.

21 I have also had the pleasure of knowing
22 Ms. Bradshaw for over 15 years, and I have to echo all of the
23 comments that were made before. She is honest; she is fair; she
24 is balanced.

25 And she enforces the law as the law states it,
26 but she also -- I have seen her outraged at how workers are
27 treated. I have also seen her outraged at unfair enforcement,
28 and I think she will do a terrific job as the Secretary of Labor

1 in ensuring that everybody gets a fair deal and will look out
2 for ensuring that jobs are created, but also well paying jobs as
3 well.

4 CHAIRMAN BURTON: Thank you.

5 MR. WETCH: Scott Wetch, Mr. Chairman, on behalf
6 of the California State Pipe Trades Council, the State
7 Association of Electrical Workers, and the Western States
8 Council of Sheetmetal Workers.

9 We just would like to associate ourselves with
10 everything that's been said about Ms. Bradshaw and urge her
11 confirmation.

12 Thank you.

13 CHAIRMAN BURTON: Next.

14 MR. MICCICHE: Mike Micciche with La Cooperativa
15 Campesina de California, association of migrant seasonal
16 farmworker programs.

17 We're in total support of Ms. Bradshaw. She's
18 been supportive of our programs, particularly in terms of skill
19 needs and abuse. So, we endorse her without question.

20 CHAIRMAN BURTON: Thank you, sir.

21 Next.

22 MR. NICHOL: Dana Nichol, Pacific Association of
23 Building Service Contractors.

24 Our clients have worked with Ms. Bradshaw and her
25 staff in the past, and they've been very proud in fighting the
26 underground economy. We appreciate their efforts.

27 CHAIRMAN BURTON: Thank you.

28 Sir.

1 MR. LOPEZ: My name is Carlos Lopez, with the
2 Center for Employment Training.

3 We're totally in support of Ms. Bradshaw being
4 appointed as Labor Secretary.

5 She does have a very clear understanding of the
6 needs of people, especially diverse groups in our state.

7 CHAIRMAN BURTON: Thank you.

8 MR. HENNING: Patrick Henning with the State
9 Council of Laborers in strong support of Ms. Bradshaw.

10 I've had the fine chance of working with
11 Ms. Bradshaw over my time after the Davis administration, making
12 the transition to the Schwarzenegger administration. It was a
13 tremendous experience.

14 CHAIRMAN BURTON: Anybody ever tell you that you
15 look like Gavin Newsom?

16 [Laughter.]

17 MR. HENNING: Is that good or bad, sir?

18 CHAIRMAN BURTON: You'd have to ask his wife.

19 MR. CREMINS: Tim Cremins, Operating Engineers,
20 in full support.

21 We've known Vicky through several
22 administrations, and she's always proven to be very responsive.

23 Thank you.

24 MR. CURTIN: Danny Curtin, California Conference
25 of Carpenters.

26 I think the level of support that's being shown
27 for Ms. Bradshaw indicates that we've got a good appointee here,
28 and we also want to indicate our support.

1 Thank you.

2 CHAIRMAN BURTON: Thank you.

3 Witnesses in opposition? Come on, all forward.

4 SENATOR JOHNSON: Move.

5 CHAIRMAN BURTON: Senator Johnson moves.

6 First of all, I want to thank you and your staff
7 very much for the work you did on the hand weeding bill. It
8 took a lot of time, and I do appreciate the effort you put in.
9 I clearly hope that it's a fair but unbalanced approach to the
10 problem.

11 CHAIRMAN BURTON: Call the roll.

12 SECRETARY WEBB: Senator Karnette.

13 SENATOR KARNETTE: Aye.

14 SECRETARY WEBB: Karnette Aye. Senator Romero.

15 SENATOR ROMERO: Aye.

16 SECRETARY WEBB: Romero Aye. Senator Johnson.

17 SENATOR JOHNSON: Aye.

18 SECRETARY WEBB: Johnson Aye. Senator Burton.

19 CHAIRMAN BURTON: Aye.

20 SECRETARY WEBB: Burton Aye. Four to zero.

21 [Thereafter, SENATOR BRULTE

22 voted Aye, making the final

23 vote 5-0 for confirmation.]

24 CHAIRMAN BURTON: Congratulations, Vicky.

25 MS. BRADSHAW: Thank you.

26 CHAIRMAN BURTON: Please give my best to your
27 mother.

28 MS. BRADSHAW: I will. She'll be disappointed

1 she missed you.

2 CHAIRMAN BURTON: So am I.

3 Next is the Jose Millan, Deputy Secretary.

4 MR. MILLAN: Good afternoon, Mr. Chairman and
5 Members of the Senate Rules Committee.

6 My name is Jose Millan. I come before you as the
7 Deputy Secretary designate for the Labor and Workforce
8 Development Agency.

9 I just want to echo and support everything that
10 Secretary Bradshaw just testified to.

11 [Laughter.]

12 MR. MILLAN: But more importantly, if you have
13 any specific questions that you would like to direct to me, I
14 would be happy to answer them.

15 CHAIRMAN BURTON: Do you have any family here?

16 MR. MILLAN: No.

17 SENATOR JOHNSON: What's your favorite color.

18 [Laughter.]

19 MR. MILLAN: Blue.

20 CHAIRMAN BURTON: What's your sign.

21 MR. MILLAN: Capricorn.

22 CHAIRMAN BURTON: What actions have you taken to
23 coordinate and streamline wage enforcement and fair employment
24 activities since you've been in your position, which has been
25 since shortly after the Governor came in.

26 MR. MILLAN: Since February 17th of this year,
27 sir.

28 Some of the actions that I've taken or undertaken

1 have been -- actually were referenced earlier in Secretary
2 Bradshaw's testimony in terms of the low wage worker workshops
3 that we launched in Fresno, and also we'll be having in Los
4 Angeles in the next few weeks. That was one activity.

5 The other activity is launching new joint
6 enforcement task forces with the Employment Development
7 department, the Division of Labor Standards Enforcement.

8 CHAIRMAN BURTON: What's the low wage worker
9 workshop? What would that entail?

10 MR. MILLAN: The low wage worker workshop, WWW,
11 the low wage worker workshops were designed with two primary
12 purposes in mind. One was to have an opportunity for the
13 workers to meet with Agency personnel, Agency officials, and
14 share complaints or information concerning employers that are
15 violating the law outside of the workplace so it'd be in a
16 neutral area outside of work time.

17 CHAIRMAN BURTON: Like garment, culinary --

18 MR. MILLAN: Garment, culinary, car wash,
19 janitorial, day laborers, farmworkers. That's where we're
20 having them in the mixture of --

21 CHAIRMAN BURTON: Is it like word of mouth, or
22 what?

23 MR. MILLAN: No, we have an advertising campaign
24 that was launched -- actually we're going to be launching it for
25 the L.A. forum, where we're developing posters, and we're
26 posting them in the offices of the Division of Labor Standards
27 Enforcement where we have a lot of walk-in traffic of workers
28 who'll be able to see it in English and in Spanish, Chinese,

1 Korean, and Vietnamese.

2 CHAIRMAN BURTON: And they kind of spread the
3 word among their compatriots?

4 MR. MILLAN: Right. In addition to having the
5 posters and the advertising campaign, we're also enlisting the
6 assistance of the low wage worker advocate groups, Victor
7 Narraro, Lilia Garcia from the SEIU Labor Maintenance Fund.

8 CHAIRMAN BURTON: You bring them together to
9 either explain their rights or hear complaints?

10 MR. MILLAN: Right, complaints and also tips on
11 employers that are violating the law so we can go after them.

12 And then apart from that, apart from dealing with
13 the employees, we're also providing, as Secretary Bradshaw
14 indicated, information to those workers on information how they
15 can improve their skill levels and training so they could
16 advance in their careers.

17 CHAIRMAN BURTON: I know you had a tough budget,
18 but is the staff sufficient to do the work that's necessary on
19 the underground economy to be bringing basically more revenue
20 into the state or whatever?

21 You can always use more, but how short are you?

22 MR. MILLAN: The appropriate level of staffing is
23 a problem. Fortunately, as you know, we escaped having to have
24 any cuts taken to our enforcement program in this last fiscal
25 budget.

26 But what we're trying to do to leverage the
27 resources that we do have is, we're enlisting private partners
28 in our effort to combat the underground economy.

1 CHAIRMAN BURTON: Those that are legitimate who
2 are getting beat by --

3 MR. MILLAN: Exactly, and encouraging them to
4 come forward with the information so that we can go after the
5 people that are violating the law.

6 CHAIRMAN BURTON: Does your budget operate on a
7 bounty basis, or that all goes into the General Fund?

8 MR. MILLAN: I think as the result of some
9 negotiations dealing with the reforms of SB 796, there's going
10 to be a change in the formula to allow more revenue to come in
11 under SB 1809.

12 CHAIRMAN BURTON: Prior to the great 796
13 negotiation, did you get like bounty, or you just raised money
14 and it went into the General Fund and then figured that the
15 government might be smart enough to give you more money to get
16 money? Is that how it was?

17 MR. MILLAN: That's how it worked, yes.

18 CHAIRMAN BURTON: One last question.

19 The State Unemployment Tax Avoidance, SUTA.

20 MR. MILLAN: Right.

21 CHAIRMAN BURTON: I guess there's a way that,
22 somehow, employers could be like just through paperwork moving
23 stuff and then scamming the system. Is that an extensive thing?
24 What can you do to try to prevent it? Do we have statutory
25 sanctions on them or what?

26 MR. MILLAN: Yes, we do.

27 We're actually involved in a number of court
28 actions involving SUTA dumping. The practice is called SUTA

1 dumping, where employers are taking on shells of other companies
2 and getting the lower UI premiums on that basis.

3 We're cooperating with the Department of
4 Insurance as well as EDD's Underground Economy Office. We have
5 several court cases in the works and other -- I think there's
6 some pending legislation also to deal with SUTA dumping.

7 CHAIRMAN BURTON: Senator Johnson.

8 SENATOR JOHNSON: No questions.

9 CHAIRMAN BURTON: Senator Romero.

10 SENATOR ROMERO: No questions.

11 CHAIRMAN BURTON: Senator Karnette.

12 SENATOR KARNETTE: No questions.

13 CHAIRMAN BURTON: Witnesses in support, briefly.

14 MR. CURTIN: Mr. Chairman Members Danny Curtin,
15 California Conference of Carpenters.

16 I've known Jose I think since when Greg Schmidt
17 had hair. It's been a long time, and he's been a good guy.

18 CHAIRMAN BURTON: He said it's two years.

19 [Laughter.]

20 MR. CURTIN: I'm losing my memory, buddy, so
21 we're going in together.

22 CHAIRMAN BURTON: Since you had a memory.

23 MR. CURTIN: Exactly, since I had a memory.

24 He's been good. He's been very helpful, very
25 fair, very much the same things that were said about Victoria
26 Bradshaw. We could always talk with Jose, and we got a lot of
27 results. He's a fair guy and good to work with.

28 I urge your support.

1 MS. WEI: Angie Wei, California Labor Federation
2 in support.

3 I had the pleasure of watching Mr. Millan on tv,
4 on my local tv station when they did a press conference
5 coordinated with the Franchise Tax Board and the EDD to go after
6 an employer who did not have workers comp insurance. Candidly,
7 I never saw such action out of the previous administration. It
8 gave us great hope that the labor laws would get enforced.

9 We're proud to support him.

10 CHAIRMAN BURTON: You're talking about the Wilson
11 administration?

12 MS. WEI: The one right after that. I can't
13 remember exactly. Something happened in between.

14 [Laughter.]

15 CHAIRMAN BURTON: Barry.

16 MR. BROAD: Barry Broad on behalf of the
17 Teamsters, and Unite Here! and the Machinists, and AFTRA, and et
18 cetera.

19 Jose has always been totally responsive. When he
20 was Labor Commissioner, you called him up, he returned your
21 phone call.

22 I never did get a return phone call after the
23 last -- from the last Labor Commissioner.

24 So, I'm very pleased to support him. A totally
25 decent guy.

26 CHAIRMAN BURTON: Could I ask you a question
27 about the Machinists?

28 MR. BROAD: Yes, sir.

1 CHAIRMAN BURTON: They wanted a meeting with me
2 to discuss their legislative program. Is that for the last two
3 weeks or for the next two years?

4 MR. BROAD: I believe that that is a local,
5 spontaneous combustion.

6 CHAIRMAN BURTON: All right.

7 Mr. Balgenorth.

8 MR. BALGENORTH: Bob Balgenorth, State Building
9 Trades.

10 We likewise enter our support for Jose. He's
11 doing an outstanding job over there. We've worked with him for
12 a long period of time, and no point in elaborating. He's a
13 good guy.

14 CHAIRMAN BURTON: Thank you.

15 MR. HENNING: Patrick Henning again with the
16 State Council of Laborers, and if you'll let me speak for the
17 Mayor of San Francisco, I'd be more than happy to do that as
18 well.

19 [Laughter.]

20 MR. HENNING: In strong support of Jose Millan.
21 His efforts on the underground economy, as you've heard before
22 in my testimony today, are second to none. I urge your support.

23 CHAIRMAN BURTON: Thank you.

24 MR. CREMINS: Tim Cremins, Operating Engineers.
25 For all the reasons above in full support.

26 MR. NICHOL: Dana Nichol, Pacific Association of
27 Building Service Contractors.

28 As Ms. Wei stated, we are also very impressed

1 with Mr. Millan's efforts to combat the underground economy.

2 Thank you.

3 MS. BROYLES: Good afternoon, Mr. Chairman and
4 Senators. Julianne Broyles from the California Chamber also
5 here in support of Jose Millan's nomination. We think that he
6 would make a wonderful head of enforcement for the labor agency.
7 He has a long track record, again, of being both fair and
8 balanced in how he approaches his job. You couldn't ask for
9 better.

10 Thank you.

11 CHAIRMAN BURTON: Any witnesses in opposition?

12 Moved by Senator Johnson. Call the roll.

13 SECRETARY WEBB: Senator Karnette.

14 SENATOR KARNETTE: Aye.

15 SECRETARY WEBB: Karnette Aye. Senator Romero.

16 SENATOR ROMERO: Aye.

17 SECRETARY WEBB: Romero Aye. Senator Johnson.

18 SENATOR JOHNSON: Aye.

19 SECRETARY WEBB: Johnson Aye. Senator Burton.

20 CHAIRMAN BURTON: Aye.

21 SECRETARY WEBB: Burton Aye. Four to zero.

22 [Thereafter, SENATOR BRULTE

23 voted Aye, making the final

24 vote 5-0 for confirmation.]

25 CHAIRMAN BURTON: Thank you, congratulations.

26 Thomas Johnson, Veterans Affairs.

27 Senator Chesbro.

28 MR. CHESBRO: Mr. Chair and Members, I am pleased

1 to introduce Tom Johnson as the nominee for Secretary of
2 Veterans Affairs.

3 One of California's historic living landmarks, by
4 way of explanation of why I'm so interested in veterans, one of
5 California's historic living landmarks is in my district at
6 Yountville. It's the oldest and largest veterans home in
7 America. This last April, it celebrated its 120th anniversary,
8 and it's probably the largest veterans home in the country.

9 Over the last years, it's been my pleasure to
10 represent both the 1100 veterans who reside at the home, as well
11 as the hundreds of state employees who work at the home.

12 In representing the veterans home, I have worked
13 with a continuing succession of the secretaries and officials at
14 the California Department of Veterans Affairs, and I believe I
15 have some perspective. I also Chair the Budget subcommittee
16 that the Department comes before.

17 I have to say, this Department has been plagued
18 with mismanagement at its headquarters, and the veterans of
19 California have paid the price for that mismanagement.

20 The veterans of this state have given us their
21 best to protect our country's freedom, and they have earned the
22 best services that we can give them. I think this Department
23 over recent years at least, if not historically as well, has
24 failed veterans.

25 But since Tom Johnson's appointment this past
26 February as the Secretary of Veterans Affairs, I have been
27 meeting with him and his staff on a regular basis, and have
28 heard even more about -- have heard much more from him about the

1 workings of Department, and have found a responsiveness that I
2 did not find under previous secretaries.

3 He brings to this position not only the required
4 military credentials, but also the private sector health care
5 management skills that had been sorely lacking in the Department
6 of Veterans Affairs. Secretary Johnson has demonstrated a
7 commitment to serving the veterans of California and to making
8 needed improvements to the Department. He's assembled a
9 professional and, I might add, bipartisan staff to serve our
10 veterans. And even when he's had bad news or disagrees with
11 what I've been doing, he's been perfectly honest with me and
12 brought forward information and perspectives.

13 Just by way of an example of a proactive effort,
14 it's very small on statewide basis, but there's been a deadlock
15 with the host City of Yountville over the water supply that has
16 been there since before I was elected to the Senate six years
17 ago. And Secretary Johnson stepped in and personally resolved
18 that, and there's been an agreement signed with the City of
19 Yountville.

20 Although Tom Johnson has been on the job a short
21 time, I've been impressed with his management and direction.
22 There's much to be done to make the Department better. I'm
23 certainly not giving him the blank check of full confidence. I
24 intend to continue to monitor the Department through the budget
25 process. But I am optimistic that under a stable confirmed
26 Secretary with his experience and leadership, the Department of
27 Veteran Affairs will become the agency that our state veterans
28 deserve.

1 So, I'm very pleased to introduce to you Tom
2 Johnson.

3 CHAIRMAN BURTON: Senator Morrow.

4 SENATOR MORROW: Thank you, Mr. Chair and
5 Members.

6 Members, I confess to you, a year ago I did not
7 know Tom Johnson. But in the six months or so that I have
8 gotten to know him personally and at a professional level, I can
9 tell you without any reservation, hesitation, and with the
10 utmost enthusiasm and honor that I'm here to introduce him as
11 well as to recommend his confirmation for the appointed position
12 of Secretary of the Department of Veterans Affairs.

13 I do that in my capacity as the Chairman of the
14 Senate Committee on Veterans Affairs as well as, perhaps even
15 more importantly, I am a veteran.

16 I'm not going to repeat. You certainly have his
17 record before you.

18 But I will say this. I don't think any of you
19 would disagree. You would agree with my observation. It may
20 sound cliché, but our measure of success in politics, I'd say
21 about 95 percent of that is measured in our ability to build
22 relationships, not just in politics but especially in
23 politics.

24 From what I've seen with Secretary Johnson, not
25 only has he reached out to me, but you saw with Senator Chesbro,
26 and I can tell you with veterans groups, activists, associations
27 up and down this state, which can be a tricky thing. There's a
28 lot of times there's ruffled feathers, and nobody knows why.

1 And he's done real well to smooth a lot of those feathers up and
2 down the state.

3 He's given a great deal of assurances that were
4 on track, and going to continue on schedule the construction of
5 all five of the veterans homes out there. And I think he's done
6 a lot thus far to really unite the veterans groups and folks out
7 there, all to his credit.

8 I've observed him, what I believe to be a quiet
9 yet stable and strong leadership style, and that's exactly
10 what's needed. As Senator Chesbro said, and all of you can
11 attest to, we've seen so many secretaries come through in the
12 last four or five years now. And you're going to see Secretary
13 Johnson, I think, if he's confirmed, for many, many years here,
14 and doing a very good job for the people of California and the
15 veterans of this state.

16 I introduce him to you, and I recommend an aye
17 vote on his confirmation today.

18 CHAIRMAN BURTON: Thank you very much, Senator.
19 Secretary Johnson.

20 MR. JOHNSON: Senator Burton and Members of the
21 Committee and staff, thank you very much for this opportunity.

22 My wife and daughter, I think, are here, at least
23 they were supposed to be. There they are. My wife Betty and
24 daughter Lindsey Winter.

25 I would like to thank Senator Morrow and Senator
26 Chesbro, and all of those individuals who have submitted letters
27 on my behalf, as well as those that are here in support of my
28 confirmation.

1 I'm very honored and privileged to be here and to
2 serve veterans, and to serve the people of California, and to
3 serve Governor Schwarzenegger in this capacity. And I'm very
4 excited about the opportunity as well.

5 We've made a lot of progress in the five months
6 that I've been here. I came on the same day as Jose Millan,
7 February 17th, and just looking back at all the things that
8 we've done, I'm really amazed. And it's a team effort. Our
9 department has some great people.

10 First of all, resident care. My background is
11 health care, and that's where I've really concentrated. I want
12 to make sure that we are giving our 1600 veterans in the three
13 homes the best of care and services.

14 We have had several surveys. We've had the
15 Department of Health at our Chula Vista home. We've had the
16 Department of Health at the Yountville home. We've had the U.S.
17 Department of Veterans Affairs at Barstow. And we've received
18 our full certification back at Barstow. I was there at the last
19 survey in June, and I'm very pleased with the progress that
20 we're making in our patient care efforts.

21 I'm really pleased, as Senator Morrow mentioned,
22 about the working relationships that we've developed, not only
23 externally with veterans service organizations, the county
24 veterans service officers, federal agencies back in Washington.
25 I can pick up the phone now and call people back there, and we
26 can talk about problems, both the VISN 22 down in the Los
27 Angeles area, and VISN 21, which is the Veterans Integrated
28 Service Networks, out of San Francisco. We can talk to them now

1 and call them on problems.

2 And also internally. We didn't have a team
3 effort in our department when I came on board with the
4 Department of General Services, Department of Finance. They
5 were going different directions. Nobody was really talking. So,
6 we've got a good team effort now.

7 In fact, when I came on board February 17th, we
8 also had some challenges which I'll talk about in a second. But
9 working with the fellow secretaries, I may be a small row boat
10 in the flotilla of government, but they've treated me as one
11 that they can talk to readily and help out when I have problems.

12 Projects that have languished. We've really
13 worked hard on a lot of the projects that have just been sitting
14 there. The cemetery is one that was just dead in the water, so
15 to speak.

16 [Laughter.]

17 MR. JOHNSON: But we've revived it.

18 The homes down in Los Angeles, and the five that
19 were mentioned that we're building, there was basically a
20 stalemate. They were not going to work with us any more. We
21 got the team together from Los Angeles. We got our folks
22 together. Now we're making great progress, and I do have
23 confidence that we're going to meet our timelines in those
24 areas.

25 The outreach efforts that we're doing, too, with
26 the DVBE as well as with homeless. We're doing some interesting
27 things in that area, and I'm very pleased with the spirit that
28 our department has to not just focus inward but focus outward.

1 I'll be happy to answer more questions on that.

2 The financial house is in order. I'm not one
3 that likes to see deficiency notices, and I'm working to make
4 sure that we don't have any more of those deficiency notices
5 because 56 percent of the budget for our homes comes from the
6 General Fund. And I'd like to see it be stabilized and reduced.
7 So, we are getting our financial house in order.

8 And we're getting a great team together. We've
9 added some wonderful, skilled people that have a heart for
10 veterans. So, I'm really excited about what we have.

11 And yes, we have some challenges. In fact, our
12 new Undersecretary likes to talk about a target-rich opportunity
13 of challenges. Certainly we have those.

14 We'd like to add diversity in our health care
15 team. We'd like to add diversity in our management team. Those
16 that have the skill sets to bring about the things that we need
17 for the best in veterans care and services but can add diversity
18 to our management team.

19 Barstow does remain a challenge. We have some
20 personnel discord, and we haven't figured out yet what exactly
21 we're going to do, but I can tell you that again, I talked to
22 Vicky Bradshaw in June and I said, "Help me out." So Jose
23 Millan, we arranged this way back in June, is going to be down
24 at Barstow on Friday giving some management training to our
25 managers. We're going to solve that problem, but it's going to
26 take awhile, and it's going to take some culture shifts, and
27 it's going to take some, you know, maybe some management changes
28 as well. That's where we're making some changes in our HR

1 department.

2 We're getting a broader vision, a vision that
3 looks at employee recognition. A vision that looks at
4 orientation. I came on board, I didn't get an orientation. None
5 of our staff are getting an orientation. I'm used to talking to
6 all the new staff when they come on board, you know, "Here's the
7 vision. Here's the mission. Here's what we're going to do."
8 We're going to look at other ways of management training.

9 Employee evaluations, staff evaluations. We
10 weren't doing them on time. Those kind of things, a broad
11 overview. So, we're going to really move our HR division up to
12 a higher level.

13 And then the Cal Vet program. When I got out of
14 the service, that was a tremendous assist to my wife and our two
15 children and me. We had no house, a brand-new job, nothing to
16 put down, and there was the Cal Vet program for us. That was 34
17 years ago. We're rejuvenating that program as well. We've got
18 a new business plan coming out next month. We're going to have
19 to operate it more like a business, and that's a challenge
20 because we're used to having it as a candy jar, you know, where
21 when you need a little money, there's the Cal Vet program.

22 But it's going to have to operate like a bank,
23 and it's going to have to operate with Wall Street in mind.
24 Wall Street's looking at us, and we're going to be doing that.
25 We've got a team, I think, together that will make that happen.

26 I'm real excited about the progress. We have
27 these challenges, and I'm happy to answer any questions that you
28 might have.

1 CHAIRMAN BURTON: What's your program for
2 homeless vets?

3 MR. JOHNSON: Well, it's really around five-fold.
4 I can give you a couple of examples of things that just have
5 happened.

6 First of all, the stand downs. We've made a
7 commitment to attend every stand down. I went to the one in
8 Ventura. There'll be one in the East Bay on Friday. Every one
9 of those stand downs we're going to be there. We're going to be
10 showing encouragement.

11 Secondly, we have grants that we've put out this
12 year. We scrounged around, even though there was the budget
13 problem. We scrounged around, saved enough money to put out
14 grants. We're going to continue with that program because these
15 stand downs do a tremendous job.

16 CHAIRMAN BURTON: Grants for what?

17 MR. JOHNSON: For helping the stand downs put on
18 their programs. Eventually what we'd like to do is develop a
19 model.

20 CHAIRMAN BURTON: I need to show my ignorance.
21 What is a stand down?

22 MR. JOHNSON: I'm sorry.

23 Stand downs is a military --

24 CHAIRMAN BURTON: I marched 50 years ago.

25 MR. JOHNSON: Yeah, okay.

26 Stand downs is a military term where we take the
27 veterans who have been in combat, or they've been under stress,
28 and you bring them back away from the frontlines. You give them

1 some R&R. You give them some refreshment, some training, or
2 some opportunity to relax.

3 What we've done in about ten different locations
4 in the state, including Sacramento -- the Sacramento one is
5 coming up here in October -- they take homeless vets and bring
6 them in. They'll give them medical care; they'll give them
7 legal counselling; they'll tie them into the U.S. Department --

8 CHAIRMAN BURTON: How do you find them?

9 MR. JOHNSON: Shelters. You go to the shelters.
10 You go to the veterans organizations. You go to the social
11 service departments, all kinds of ways of advertising.

12 In Ventura, for instance, they had 268 sponsoring
13 agencies, including the County of Ventura, all kinds of veterans
14 organizations, shelters.

15 The one in San Diego that was just held, there
16 were eight homeless veterans that came to that stand down that
17 are now being processed. Actually, two have submitted
18 applications to be a resident in one of our homes. And the
19 Chula Vista home, we have 15 now that are residing there that
20 used to be homeless that are now in our veterans homes.

21 CHAIRMAN BURTON: Do they go for vets, Vietnam
22 vets, Korean vets? Probably Vietnam.

23 MR. JOHNSON: Yeah, Vietnam is the one that
24 they're seeing the most of right now.

25 CHAIRMAN BURTON: You'll soon be seeing some of
26 the others.

27 MR. JOHNSON: Right. And we'll be seeing some of
28 the Desert Storm ones soon, because they're getting more of the

1 mental problems, the substance abuse problems, particularly from
2 the Vietnam era. About 52 percent of all of the homeless vets
3 have a substance abuse problem. Sometimes they'll start off in
4 a stand down, then they'll go to a shelter, and then they'll go
5 to transitional housing like they do in Los Angeles. From
6 there, they're even now developing rental housing for the vets.
7 In fact, as we build our new home in Los Angeles, it's going to
8 be great because they've trained a number of those homeless vets
9 to run a food service. It's under New Discovery, I think is the
10 name of the community-based organization.

11 CHAIRMAN BURTON: Do you run like a 12-step
12 program?

13 MR. JOHNSON: Yes, they do.

14 CHAIRMAN BURTON: I don't know if this is what
15 you're talking about at Barstow or not, but there were concerns
16 expressed to us from some of the CSEA locals and Cafe de
17 California groups. You have committed to meet with them, and I
18 assume that'll be sooner rather than later; right?

19 MR. JOHNSON: Absolutely. And we're going to
20 carry that out very rapidly.

21 CHAIRMAN BURTON: Senator Johnson.

22 SENATOR JOHNSON: No questions.

23 CHAIRMAN BURTON: Senator Romero.

24 SENATOR ROMERO: Just curiosity.

25 Do you have any sense at all, maybe perhaps
26 working with the Department of Corrections or the Youth and
27 Adult Correctional Agency, as to the status or numbers of
28 incarcerated veterans?

1 MR. JOHNSON: That's an interesting question
2 because about two months ago, I did send a note forward to Rod
3 Hickman about this option, maybe we could take care of those
4 veterans that are costing us a lot more money in an incarcerated
5 environment. And if they're honorably discharged, if they have
6 an honorable discharge and a medical condition that allows us to
7 care for them in a veterans home, we could do that. Let's say
8 they needed skilled nursing care. We could probably do that at
9 less cost.

10 So, that is an area that we're exploring.

11 SENATOR ROMERO: It's been an area of interest to
12 me, I think, more and more as we get letters from inmates. More
13 of them are indicating that they are veterans, and it's a topic.

14 Perhaps sometime I could sit down with you and
15 maybe think about doing some type of a joint hearing.

16 MR. JOHNSON: Great.

17 SENATOR ROMERO: Thank you.

18 CHAIRMAN BURTON: Senator Karnette.

19 SENATOR KARNETTE: I didn't hear you mention the
20 federal reimbursement. Are we getting everything we're entitled
21 to?

22 MR. JOHNSON: Probably not. But I'm a
23 reimbursement nut, and I want to -- we're working on that.
24 We're working on revising our charge description master. We have
25 a Reimbursement Barriers Committee at Yountville that's looking
26 at every area that Medicare will pay for.

27 For instance, dietary counseling. We weren't
28 billing that until about three months ago. We have a committee

1 that's looking at all of those opportunities to bill
2 appropriately.

3 I want to be sure that we're always in compliance
4 with federal guidelines, but that we bill for every service that
5 we're entitled to bill. That's something we are working on.

6 CHAIRMAN BURTON: Witnesses in sport, briefly.

7 MR. ROSS: My name is Sanford Ross. I'm State
8 Legislative for the Military Order of Purple Heart in the State
9 of California.

10 We do support the confirmation of Secretary
11 Johnson as Secretary of Veterans Affairs here in the State of
12 California.

13 Thank you.

14 MR. LATTMAN: Committee Chairman, Senator
15 Burton, I am a past member of the Cal Vet Board and twice
16 Chairman of the Allied Council at the Veterans Home in
17 Yountville. The most important job I have, I am a resident of a
18 veterans home.

19 Larry Lattman.

20 I have the permission from the members at
21 Barstow, who passed in their Allied Council 100 percent support
22 for Secretary Johnson. The Yountville Allied Council passed 100
23 percent support for Secretary Johnson.

24 It is imperative for our life -- and you have to
25 remember, our average age is 79, our life expectancy is 5 years.
26 We are in the twilight years of our life. And when you drop a
27 pebble in Sacramento, it becomes a tidal wave in Yountville.

28 Please confirm Secretary Johnson. We know we

1 trust this man. We've met with him. We've talked with him.
2 And he will make our life much better.

3 Thank you very much.

4 CHAIRMAN BURTON: Thank you, sir.

5 Next.

6 MR. SALOPEK: Mr. Chairman and Members of the
7 Committee, my name is David Salopek. I'm Chairman of the Allied
8 Council of the Veterans Home at Yountville, and I am a resident
9 also.

10 We support this good and honorable man. He
11 brings tremendous professional skills and experience, 31 years
12 in hospital administration, our primary concern at the Veterans
13 Home in Yountville.

14 There's nothing else I can say on his behalf,
15 other than we have worked with the Secretary since he's been
16 with us, and he cares deeply, and he's brought a tremendous
17 management team to work with him.

18 We appreciate your consideration in this matter.
19 Thank you.

20 CHAIRMAN BURTON: Next, ma'am.

21 MS. HARRISON: I am Constance Harrison, a member
22 of the Women's Army Corps Veterans Association and the DAV. I
23 am also a disabled veteran, and I do hope that Senator
24 Johnson -- Secretary Johnson would continue to work with the
25 women veterans.

26 Therefore, I ask that he be confirmed.

27 CHAIRMAN BURTON: Thank you.

28 Next.

1 MR. LOWE: My name is John Lowe. I'm the State
2 Adjutant for the Veterans of Foreign Wars of the United States
3 here in California.

4 We do also support Secretary Johnson for this
5 position of Department of -- Secretary of Veterans Affairs. We
6 believe that he'll bring breath of fresh air to the veterans
7 community, and especially to veteran service organizations. He
8 has opened up the doors of communication avenues through our
9 organizations, through the department, and through the Federal
10 VA.

11 I also want to give him the accolades for the
12 work that he's doing on Cal Vet program, and all the support
13 that he's given for younger veterans. As you know, the Cal Vet
14 program doesn't treat post-'76 veterans as well as it does the
15 early Vietnam-Korea veterans, so we appreciate his work on that
16 as well.

17 So again, we would support the confirmation of
18 Secretary Johnson.

19 CHAIRMAN BURTON: Thank you, sir.

20 Next.

21 MR. MARTINEZ: I'm Sergeant Major Retired Richard
22 Martinez, also commander of the local American GI Forum Chapter
23 here.

24 We conduct our meetings at the Medal of Honor
25 Hall at the Department of Veterans Affairs. I met Mr. Johnson
26 when he arrived, and we've met and got along wonderful. I have
27 a great expectation that he will help out like he has promised
28 us in the meeting that he was at yesterday with his

1 Undersecretary about the diversity programs.

2 And I'm here to represent our State Commander,
3 Felipe Flores, who was unable to attend and he asked me to say
4 hello to all of you, and be sure we're endorsing our Secretary.

5 CHAIRMAN BURTON: Give our regards back.

6 MR. MARTINEZ: Thank you, sir.

7 CHAIRMAN BURTON: Next.

8 MR. SLATER: Greetings. I'm Mike Slater,
9 Legislative Officer for the Department of California Marine
10 Corps League. It's a Congressionally chartered veterans
11 organization with the best looking membership of them all.

12 Saying that, we're also pleased to recognize the
13 outstanding effort since Secretary Johnson's been on board in
14 basically getting the word out about benefits, and providing
15 benefits, and being proactive. It's a welcome breath of fresh
16 air. We just hope that we continue, and we urge you that all of
17 you will allow him to continue in this effort.

18 CHAIRMAN BURTON: Thank you.

19 Ma'am.

20 MS. GONZALEZ: Yes, Priscilla Gonzalez. I'm a
21 registered nurse, but I'm here on behalf of the California
22 Institute for Nursing and Health Care, in which Secretary Tom
23 has been our Board member.

24 I can vouch for his leadership abilities. He's
25 demonstrated that on our board. He's brought diversity, a
26 great interest in diversity -- ethnic diversity and cultural
27 diversity -- on our board.

28 I strongly support, and I strongly urge you to

1 support his nomination for Secretary.

2 CHAIRMAN BURTON: Thank you.

3 MR. BOTULA: Senator, Members of the Committee,
4 I'm Mike Botula of the California Disabled Veteran Business
5 Enterprise Alliance.

6 The Alliance firmly supports Secretary Johnson's
7 nomination. And he has shown in his brief tenure as Secretary
8 tremendous support for the DVBE program. He met with our
9 leadership very early on in his tenure, communicated our
10 concerns and issues to other state departments that we work
11 with. And we feel we have -- the DVBE community has a
12 tremendous supporter in Secretary Johnson, and the relationship
13 between the DVBEs and the Department is probably the best that
14 it's been in the ten years that our organization has been
15 around.

16 Thank you.

17 CHAIRMAN BURTON: Sir.

18 MR. LUEVANO: Thank you, Mr. Chairman, honorable
19 John Burton, distinguished Senators, and Senate Rules Committee
20 Members.

21 My name is Angel Golvinez Luevano, and I am the
22 State Director for the League of United Latin American Citizens,
23 LULAC. We're the oldest and largest Latino civil rights
24 organization in the country and in this great State of
25 California.

26 LULAC is confident that Mr. Thomas Johnson will
27 support equal employment opportunity for the Latino community
28 and for all of California. He has assured us and we know that

1 the Veterans Administration will mirror the population of this
2 great state.

3 Therefore, I will recommend to our state board
4 that we fully support Mr. Thomas Johnson's appointment as
5 Secretary of the Department of Veterans Affairs.

6 CHAIRMAN BURTON: Thank you, sir.

7 Ma'am.

8 MS. ROSS: My name is Barbara Ross. I am the
9 Director of the Sacramento Stand Down for Homeless Veterans.

10 We find that Mr. Johnson has made himself very
11 available to the veteran community, and he's brought the
12 Department back to their mission of serving the veterans.

13 And in answer to one of your previous questions,
14 we had homeless veterans from age 26 to age 76 in the Sacramento
15 stand down last year.

16 CHAIRMAN BURTON: Thank you.

17 MS. ROSS: Okay?

18 CHAIRMAN BURTON: It's not okay, but yes.

19 MR. OLIVARES: Good afternoon. I'm Roy
20 Olivares, Commander of AMVETS Capital Post Number One,
21 Sacramento. On behalf of AMVETS state Commander, Beverly
22 Grable, and all 72 posts throughout California, we support the
23 confirmation of Thomas Johnson as Secretary of Veterans Affairs.

24 Not only has Secretary Johnson opened dialogue
25 with veterans organizations throughout California, but has
26 personally attended our state convention and met with AMVET
27 state and national commanders. With this type of commitment to
28 veterans, we support Governor Schwarzenegger's appointment of

1 Secretary Johnson.

2 Thank you.

3 MR. NICHOL: Dana Nichol, Pete Conaty and
4 Associates, representing the California Association of County
5 Veteran Service Officers, the California State Commanders
6 Veterans Council, and the Armed Forces Retirees Association of
7 California.

8 We heartily support Secretary Johnson's
9 confirmation. He's been at every single event, veterans event,
10 throughout the state that we've been to.

11 Thank you.

12 MR. MARKARIAN: I'm Ron Markarian, the President
13 of the Central California Chapter, Association of the U.S. Army,
14 and a former member of the California Veterans Board, here in
15 strong support of Secretary Johnson's confirmation.

16 I think for the first time in almost
17 two-and-a-half decades we have an individual that is extremely
18 well qualified, experienced, and capable and committed to
19 serving the interests and welfare of veterans.

20 And I strongly urge that you confirm him today.

21 Thank you.

22 CHAIRMAN BURTON: Are you speaking on behalf of
23 your colleagues in the Armenian Air Force as well?

24 MR. MARKARIAN: Doggone. We're going to mobilize
25 you, Senator.

26 CHAIRMAN BURTON: Any witnesses in opposition.

27 MR. GANDARA: Good afternoon, Senator Burton the
28 other Senators.

1 My fellow veterans, my fellow co-workers from the
2 Department of California.

3 My name is Major Fernando Gandara. I am an
4 active reserve officer, but I'm also an employee at the Barstow
5 Veterans Home.

6 I had an opportunity to meet Senator Burton a
7 couple years ago, and I must report to you that I must agree
8 with everyone. Mr. Johnson is a very nice man. He has the
9 great skills that is needed for this department.

10 However, he has failed to date, failed to date to
11 open the door to resolve labor issues that have been plaguing
12 that home. I know he's very busy. He's mentioned that he would
13 come down to meet me on a couple of occasions. He's been
14 awfully busy. He agreed to send his -- Bill Parente down to see
15 me, and Bill never had a meeting with me either. He just said
16 I'm a nice guy.

17 I'm also the Assistant Regional Director for
18 CSEA. I represent Barstow, Riverside County, Bishop. I am an
19 actual steward at the home. I am a victim of the home through
20 its years there.

21 And the question asked to me now is, what is
22 different about Mr. Johnson? How does that affect him?

23 My answer is that, basically, if you do nothing
24 to stop it, if you do nothing to correct it, to correct the
25 wrong justices that have been done to these victims that are
26 working there today, then you are no better than those people
27 that perpetrated the crime.

28 We lost 165 employees at Barstow through layoffs.

1 Out of the three homes, 165 were picked out of Barstow out of
2 retaliation. And I met one person last night, Frank Grafino,
3 who also admits that he was fired as a result of retaliations.

4 Retaliations are a thing that are current at the
5 Barstow Veterans Home. It's not just a phase. It's not just a
6 rumor. I am one of them. I've been promoted twice and demoted
7 twice, and I was the recycling coordinator for the DVA. We had
8 the best recycling program within the DVA. We have the only
9 recycled golf course there. We have recycled uniforms. We have
10 a lot of things that are recycled, but the administration under
11 Mr. Johnson that he inherited dismantled that program, and
12 that's in violation of AB 75, which mandates that small and
13 large state agencies recycle. We do no recycling now.

14 And so, basically that's where I'm at. I'm
15 speaking from experience. It's not my opinion.

16 Right now under Mr. Johnson's leadership, there
17 still persists unequal employment opportunities, differential
18 treatment of employees, retaliation and reprisals,
19 discrimination at work due to race, age, or disabilities, and a
20 hostile work environment by the administrator there right now,
21 the interim administrator.

22 I'll tell you a good story about a friend of mine
23 and then I'll finish. His name -- he's 70 years old. His name
24 is McHenry Cook. He's a stationery engineer, and he's allowed
25 to work, but the Barstow personnel office fired him for a
26 work-related injury. And when he filed an EEO complaint, they
27 turned around and said, "No, he still works for us. He works at
28 Chula -- Yountville now." He hasn't received a paycheck in two

1 years, yet they claim this is what's going on.

2 So, it's unfortunate. I'm sure Mr. Johnson isn't
3 aware of those things. However, the leadership is always
4 responsible for what his people fail to do. And that's
5 basically where we're at.

6 That concludes my presentation. If there are any
7 questions?

8 CHAIRMAN BURTON: Would you like to respond?

9 MR. JOHNSON: Mr. Gandara and I met today, and we
10 talked a little bit earlier.

11 And it does take a team effort in any
12 environment, and it takes a team effort in Barstow. We're
13 working on that.

14 Mr. Parente will be down there, and Mr. Gandara
15 knows that we'll be meeting in a long meeting on Friday, I think
16 it is, on the 12th.

17 MR. GANDARA: It's tomorrow, sir.

18 MR. JOHNSON: And, you know, management isn't
19 always right. So if management's wrong, they're going to be
20 held accountable, or we'll train, or we'll replace. We've got
21 issues to deal with, and we will deal with them as best we can.

22 SENATOR JOHNSON: Move.

23 CHAIRMAN BURTON: Senator Johnson moves, call the
24 roll.

25 SECRETARY WEBB: Senator Karnette.

26 SENATOR KARNETTE: Aye.

27 SECRETARY WEBB: Karnette Aye. Senator Romero.

28 SENATOR ROMERO: Aye.

1 SECRETARY WEBB: Romero Aye. Senator Johnson.

2 SENATOR JOHNSON: Aye.

3 SECRETARY WEBB: Johnson Aye. Senator Burton.

4 CHAIRMAN BURTON: Aye.

5 SECRETARY WEBB: Burton Aye. Four to zero.

6 [Thereafter, SENATOR BRULTE

7 voted Aye, making the final

8 vote 5-0 for confirmation.]

9 CHAIRMAN BURTON: Congratulations.

10 MR. JOHNSON: Thank you very much.

11 CHAIRMAN BURTON: Charlene Zettel.

12 Senator Alpert.

13 SENATOR ALPERT: Thank you, Senator Burton.

14 I wanted to be here today to introduce Charlene
15 Zettel. She is a friend of mine from my county, served with me
16 in the Legislature while in the Assembly. I think most all of
17 you also have served with her and know her.

18 What I wanted to talk about a little bit today,
19 starting with the fact that she was a fellow school board member
20 in San Diego, that she served in nonpartisan office, showed
21 herself to be a person of high integrity, a person who works
22 extremely hard.

23 When she came to the Legislature, she worked well
24 with the Womens Caucus. We worked on a number of issues
25 together, especially related to elder abuse and in relation to a
26 lot of child care issues and after school programs in San
27 Diego.

28 I have watched that she was always a good

1 representative for her constituents. And when she was first
2 applying for this role, she spoke to me about sending a letter
3 on her behalf, which I did because I felt that while there have
4 been some criticisms of Ms. Zettel, that the truth was that when
5 she was a member of the Assembly, she represented her district.

6 She now has statewide responsibility. She is the
7 head of the Department of Consumer Affairs and recognizes that
8 she represents the consumers of California.

9 And I know her to be intelligent, and as I say,
10 hard working, dedicated to her job. And I know that she can do
11 the job and will do the job. I think she's an excellent
12 candidate for this office, and I would ask that you confirm
13 her.

14 Thank you.

15 CHAIRMAN BURTON: Ms. Zettel.

16 Thank you, Senator Alpert.

17 MS. ZETTEL: Thank you, Senator, and good
18 afternoon Mr. Chairman and Committee Members.

19 Before I begin, I'd like to introduce my mother,
20 if I may, Blanche Gonzales is here, and I'm grateful for her
21 attendance.

22 I'm also grateful for DCA's staff who has come to
23 support me.

24 It's a great honor to be nominated as Director of
25 the Department of Consumer Affairs and to be trusted by this
26 administration to protect the people of this great state. I'm
27 humbled to have the support of community leaders, consumer
28 groups, Members of the Legislature, and associations such as the

1 District Attorneys who are dedicated to protecting the public.

2 DCA serves as the primary resource for providing
3 protection, education, and assistance to consumers and licensed
4 professionals. And I'm wholly committed to this effort.

5 I believe that strong enforcement of the laws and
6 regulations that protect us is essential.

7 I bring to this position rich experience and a
8 unique perspective. In the last 35 years, I've been a health
9 professional, business owner and manager, advocate for children,
10 dependent adults, the elderly, homeless veterans. I've been a
11 school board trustee and Assembly Member.

12 I'm honored to have worked with you in the
13 Legislature where we worked together to pass, and I authored
14 legislation to protect the most vulnerable of our society,
15 helpless children and fragile elderly. I'm grateful for the
16 opportunity to continue to protect these vulnerable groups.

17 In my brief tenure of this past four months as
18 Director, I've aggressively embraced DCA's mission of consumer
19 protection. I've met regularly with over 35 bureau chiefs and
20 executive officers to establish priorities, especially for
21 greater consumer protection and education, effective
22 enforcement, and fighting unlicensed activity.

23 In addition, I've hosted several consumer round
24 tables and met personally with consumer advocates to hear their
25 concerns and address their challenges. I've attended functions
26 of consumer protection functions with Assembly Member Firebaugh,
27 and this Friday I'm going to one hosted by Speaker Emeritus Herb
28 Wesson. In response to meetings, we are now reaching out to

1 California's military personnel and their families who are in
2 desperate need of consumer information.

3 We've accomplished a great deal in a very short
4 time. When I took over the department, there were long delays
5 in licensure that prevented the creation of new jobs, so we've
6 implemented an aggressive plan which helped over 18,000
7 Californians enter the workforce. Working with the
8 administration and Agency, we created the A Team, a temporary
9 workforce to process applications and speed up testing for
10 nurses and cosmetologists and contractors.

11 We're also restoring our relationship with the
12 Consumer Products Safety Commission. I recently met with
13 Chairman Al Straton, who expressed his enthusiasm about our
14 renewed partnership. The CPSC recalls and issues advisories
15 almost daily. We've added a link on the DCA website to notify
16 consumers of product recalls and scam alerts.

17 In addition, we've implemented a strategic
18 consumer outreach plan which added community-based organizations
19 and the ethnic media to our contact list. We are making sure
20 that DCA is reaching those underserved communities that have
21 been overlooked in the past.

22 Looking ahead, we're preparing for January 2005,
23 when California will be the first state in the nation to enforce
24 strict new mattress flamability standards. The Department is
25 heavily involved in educating consumers and the industry about
26 these new regulations designed to save lives.

27 CHAIRMAN BURTON: Did they raise that misdemeanor
28 to a felony for removing the mattress tag?

1 MS. ZETTEL: I'm not sure, Senator, but I can
2 find out that for you.

3 But that will now be part of that tag, that your
4 mattress is compliant with TB 603.

5 In closing, please let me say that if confirmed,
6 you have my solemn pledge that I will enthusiastically accept
7 this challenge. I'm committed to DCA's mission of consumer
8 protection and will serve the residents of California with
9 dedication and integrity.

10 Thank you, Mr. Chairman.

11 CHAIRMAN BURTON: Thank you.

12 There is a strong concern, given the voting
13 record on consumer issues in the Assembly that was, you know,
14 give or take about a 25 percent rating. And I heard Senator
15 Alpert.

16 Basically consumer issues are not necessarily
17 ones dealing with a constituency. They deal with business
18 versus consumer, or consumer versus business, for good or for
19 bad.

20 Given that, will you assure us that you're going
21 to be representing consumers, representing the frail, elderly
22 and little kids? That's kind of ice cream. But when you have
23 to represent consumers against the awesome, quote, power of the
24 Chamber, or whatever, then that gets a little bit stickier.
25 That's one of the tenets of your position.

26 There's two areas of concern that I have. Can we
27 be assured that you understand what your role is? And your role
28 is not to destroy business, but your role is basically that of,

1 I think it's called a consumer agency, if I'm not mistaken.

2 MS. ZETTEL: Thank you, and you have my solemn
3 pledge. I will assure you that I take very seriously the oath
4 of office to defend the California Constitution. That means
5 enforcing all the laws of the State of California.

6 In addition, we did do an analysis of bills that
7 were analyzed by the Department of Consumer Affairs, consumer
8 bills in the last three years.

9 CHAIRMAN BURTON: With all respect, their bills
10 could be whether you voted, which I'm sure was important.

11 But to have a larger tag and don't remove this
12 tag, but I'm talking basic consumer protection.

13 I don't want to get into whether you know you had
14 25 percent or 95 percent. That was then and this is now.

15 MS. ZETTEL: Absolutely.

16 CHAIRMAN BURTON: Your commitment, I would, for
17 one, accept your commitment.

18 I think also it's important to, consistent of
19 course with the administration, but that you can also
20 aggressively support new efforts to protect consumers.

21 On the issue of privacy, and I don't know where
22 you were on those issues, or whether or not you were already out
23 of office, how do you view the privacy legislation and the
24 Office of Privacy Protection, which was a fairly long, drawn out
25 battle, at least in the Assembly. Seemed like it never ended.

26 MS. ZETTEL: Well, I voted to support the Office
27 of Privacy Protection, and voted certainly on the Do Not Call
28 List, which now has about 66 million signups.

1 CHAIRMAN BURTON: That doesn't even work. Is
2 that under your purview, that Do Not Call List?

3 MS. ZETTEL: The Office of Privacy Protection.

4 CHAIRMAN BURTON: Forget the Office of Privacy
5 Protection. How about the Do Not Call List?

6 MS. ZETTEL: We do have a link on our website to
7 make it easier for California consumers to access the Do Not
8 Call List.

9 CHAIRMAN BURTON: No. Let me tell you. I signed
10 everything there was to sign, and I'm still getting calls from
11 anybody and everybody. I can't tell you how many times I tell
12 them, well, I'd like to help you but Mr. Burton just passed away
13 yesterday.

14 [Laughter.]

15 CHAIRMAN BURTON: And one of the people literally
16 said, "Well, can I call back tomorrow and talk to whoever?"

17 SENATOR ROMERO: You weren't very convincing.

18 CHAIRMAN BURTON: Back to the office, somebody's
19 skirting around. Either we have a very weak Do Not Call, or
20 somebody's skirting, and I know it's not your fault, but
21 somebody is definitely skirting that.

22 MS. ZETTEL: Well, we are showing leadership in
23 financial privacy protection. Yesterday we hosted an advisory
24 committee of consumer representatives and consumer advocacy
25 representatives, and businesses to see how we could harmonize
26 state and federal laws in financial privacy and other states'
27 laws. We want to make sure that the industry is educated on
28 the new bills, and that consumer groups know their

1 responsibilities and rights as well.

2 CHAIRMAN BURTON: Is there pre-emption in
3 privacy, or is ours standing?

4 MS. ZETTEL: Well, that will be -- that could be
5 some area --

6 CHAIRMAN BURTON: As we speak now, did they do
7 federal pre-emption, or is the SB whatever it was, one, the law
8 of the state without federal pre-emption?

9 MS. ZETTEL: There are parts of it that could be
10 considered pre-emption, but we are going to enforce the law of
11 California. That is my duty. We'll let the courts --

12 CHAIRMAN BURTON: Let somebody sue and say it's
13 pre-empted.

14 MS. ZETTEL: No. If we can fight pre-emption --

15 CHAIRMAN BURTON: You enforce the law, and
16 whoever says it's pre-empted, the burden's on them to overturn
17 your ruling. Is what you're saying?

18 MS. ZETTEL: Absolutely. We're going to enforce
19 the law.

20 CHAIRMAN BURTON: Senator Johnson.

21 SENATOR JOHNSON: No questions.

22 CHAIRMAN BURTON: Senator Romero.

23 SENATOR ROMERO: Assemblyman Firebaugh was here.
24 Unfortunately he had to leave, but he's the Chair of the Latino
25 Caucus.

26 He wanted me to express on behalf of himself and
27 the members of the Caucus that there's strong support for former
28 Assemblywoman Zettel.

1 Again, for myself personally, we came in as
2 classmates into the Assembly. We didn't always vote the same,
3 but I will say that I think Assemblywoman Zettel has great
4 integrity. She was open-minded. You could present the case to
5 her.

6 I have no hesitation in giving her my support and
7 also the support of the other members of the Latino Caucus. We
8 wish you well.

9 MS. ZETTEL: Thank you, Madam Senator.

10 CHAIRMAN BURTON: Senator Karnette.

11 SENATOR KARNETTE: I get more calls on things
12 related to consumer concerns than almost anything.

13 As a Member, I'd like to be able to call
14 directly. And since I know you so well, I'm wondering what's
15 going to be your policy on how you respond to Members?

16 I'm not saying everybody doesn't respond well,
17 but there could be a call everyday from me, and I'm sure that's
18 true of other Members.

19 Do you have kind of policy, and how will you
20 pursue those things?

21 MS. ZETTEL: Absolutely.

22 First of all, I have notified our correspondence
23 unit that any letter or phone call that comes from a Legislator
24 gets immediately forwarded to my office for a response.

25 Oftentimes it does take us a couple weeks of
26 research to ferret out an issue about what went wrong.

27 In addition, I would like to work proactively
28 with the Legislature to host consumer information fairs. If you

1 invite me to your district, we can bring privacy experts; we
2 can bring -- and I hope to soon be up to speed with all the
3 facets of California law, which are fairly technical in privacy.
4 But we'll bring experts on privacy, protection on nursing
5 practices, protections on, you know, building a home, medical
6 practice protections. Whatever you feel your consumers need,
7 we'll be happy to host that round table.

8 SENATOR KARNETTE: They expect the Legislative
9 Member to do something right away. At least give them a
10 response. I appreciate that. I think that's very crucial.

11 MS. ZETTEL: Absolutely.

12 The Governor's correspondence has always come to
13 the Director's desk. I've dictated that legislative letters
14 come immediately to my desk.

15 CHAIRMAN BURTON: Witnesses in support.

16 MR. COOPER: Mr. Chair and Members, Gary Cooper
17 representing Hearing Health Care Providers of California.

18 I have worked with Ms. Zettel when she was in the
19 Assembly and found her very knowledgeable on the issues of
20 consumerism and the professions.

21 Working with her now in her current position, we
22 have found her very willing and open to strong consumerism while
23 making sure that the associations increase the standards for
24 entering into some of the professions and licensing categories.
25 And she's shown a willingness to deal with the professions in a
26 fair and equitable basis.

27 We strongly urge her confirmation. Thank you.

28 MS. DUMANIS: Good afternoon, Senator Burton and

1 distinguished Members of the Senate.

2 My name is Bonnie Dumanis. I'm the San Diego
3 District Attorney. I'm here to testify on behalf of Charlene
4 Zettel for the Director of the Department of Consumer Affairs.

5 As a former judge who, incidentally, worked very
6 closely with your office, Senator Burton, on Prop. 36 and Mike
7 Brady, I was a drug court judge, I have known Charlene Zettel
8 for over ten years. I have known her as a judge and as the
9 District Attorney.

10 She has been there for law enforcement. She is
11 inclusive, even-handed, balanced, and open.

12 I echo what Senator Alpert said about her. We
13 may not always agree on things, but Charlene is always there to
14 listen, to be considered, and to even-handedly approach
15 things.

16 Her actions on behalf of our citizens and her
17 commitment to the community and public service have been
18 commendable. She's been active in seniors -- legislation on
19 behalf of seniors, on behalf of children, on behalf of all those
20 who are vulnerable.

21 The California District Attorneys Association is
22 in support of her. I, as the District Attorney in San Diego, am
23 in support of her un equivocally. She is the best. We urge her
24 support.

25 CHAIRMAN BURTON: That's not the Board of Prison
26 Terms now.

27 MS. DUMANIS: We'll work on that later, Senator.

28 MS. MARSHALL: Senator Burton, Members of the

1 Rules Committee, I'm Marla Marshall. I'm representing Sheriff
2 Bill Colender of San Diego County and the San Diego County
3 Sheriff's Department.

4 One might ask the nexus between law enforcement
5 projects, which we worked with Ms. Zettel in the past, and the
6 confirmation that she seeks today. We both have taken oaths to
7 protect those people in the community. Those who law
8 enforcement have protected are also consumers, and often times
9 there have been issues that relate to people who have been
10 victims of consumer fraud and other consumer offenses.

11 The Sheriff asked me to convey his strong
12 support, and we believe that Ms. Zettel will continue to
13 represent consumers as she has in the past.

14 Thank you.

15 SENATOR JOHNSON: Next witness please, briefly.

16 MS. BERMUDEZ: Vicki Bermudes, representing the
17 58,000 registered nurses in California.

18 We're in strong support of Ms. Zettel. We've
19 already had some opportunity to work with her on an issue of
20 consumer safety and nursing education, and I can say she stood
21 squarely in support of upholding California regulations and
22 laws.

23 Thank you.

24 MR. MEJIA: Members, Jose Mejia with the State
25 Council of Laborers in strong support.

26 I've had the pleasure of working with Ms. Zettel
27 when she was in the Assembly on a variety of issues, and we're
28 very proud to extend our support. I'd urge your confirmation.

1 Thank you.

2 MR. GREENWOOD: Good afternoon. My name is Paul
3 Greenwood. I'm a Deputy District Attorney in San Diego, heading
4 up the Elder Abuse Prosecution Unit for the last eight years. I
5 also chair the statewide Committee of Prosecutors Protecting
6 Elders.

7 Charlene Zettel was the first Legislator Member
8 who came to me and said to me several years ago, "What can I do
9 to pass a law to protect the vulnerable and the seniors?" With
10 her tremendous leadership, we passed a law which has been used
11 across this state to protect seniors, to preserve their
12 testimony.

13 It is those kinds of victims who are mainly the
14 consumers who are being ripped off in California, the elderly
15 and the vulnerable. Under her leadership, I have no doubt that
16 she will do a first-class job, and I urge your support.

17 Thank you.

18 MR. CONRAD: My name is Jim Conrad. I'm the
19 former Director of the Department of Consumer Affairs. I'm the
20 President of Consumers First, and the Chairman of the Board of
21 Directors of the California Small Business Association.

22 We're here -- I'm here today representing their
23 interest in asking you to strongly support Charlene Zettel as
24 the new Director of the Department of Consumer Affairs.

25 Clearly, consumers have a great need for a strong
26 consumer protection agency, one that makes the marketplace work
27 better and enforces vagrant activities.

28 For small businesses, who also need consumer

1 protection, many of them are licensed by this department, and we
2 need to know that the person in charge will run the department
3 efficiently and effectively, and making sure that people can
4 work, and go after those who violate the state laws so we weed
5 out bad players in the marketplace.

6 I think she'll do an excellent job. I hope
7 you'll do the same. You've clearly heard many people testify on
8 her behalf on her character, her willingness to outreach to
9 people.

10 And on behalf of the Small Business Association
11 and Consumers First, and myself as a former director, I ask that
12 you support her.

13 Thank you.

14 SENATOR JOHNSON: Witnesses in opposition, please.

15 MR. HELLER: Good afternoon, Mr. Chairman,
16 Members of the Committee. I'm Douglas Heller with the
17 Foundation for Taxpayer and Consumer Rights.

18 I come up today in opposition to the confirmation
19 of Ms. Zettel.

20 I would say in the start, I don't doubt by any
21 means the integrity of Ms. Zettel.

22 What concerns us is the qualifications that
23 Ms. Zettel has for this very important post, to protect the
24 consumers of California. There are very few job titles within
25 the state bureaucracy that are specifically set aside for a
26 consumer advocate. Director of the Department of Consumer
27 Affairs is preeminent among them.

28 As an Assembly Member, Ms. Zettel's positions too

1 often sided with the interests of business and against the
2 interests and needs of California consumers.

3 Senator Burton spoke earlier and queried
4 Ms. Zettel about the issue of financial privacy. When in
5 office, Ms. Zettel sided with the banks and the insurance
6 companies and opposed the financial privacy laws that were the
7 chief battles of this Legislature in recent years. Ms. Zettel
8 opposed efforts to protect low-income consumers from predatory
9 lending, a bill that was eventually passed.

10 Similarly, or perhaps in a different way, it was
11 Ms. Zettel that sponsored legislation that would have removed
12 liability for drug companies that make dangerous
13 pharmaceuticals. This is not -- this is certainly her right to
14 bring forward these issues and take these stands, but that's
15 not -- that is not the type of person that we need protecting
16 California consumers from the problems, and volatilities, and
17 vagaries of the consumer marketplace.

18 Unfortunately, one of the first things that
19 happened under Ms. Zettel's tenure as the Director of the
20 Department was the firing of Lynn Morris, who had been the head
21 of the Division of Home Furnishings and -- gosh, I'm losing the
22 name of the agency -- it's the division of the Department of
23 Consumer Affairs responsible for home furnishings, to make the
24 flammability issues of bedding and those kinds of products.
25 Ms. Morris had been around for -- through many administrations
26 and done a very good job as a public civil servant, fighting for
27 the protections of consumers. To lose her was a very concerning
28 sign to us that California is going to be losing those people

1 that stand in the lines between businesses that aren't concerned
2 about the public's safety and the needs of consumers.

3 Under the recently released California
4 Performance Review, the Department of Consumer Affairs is
5 essentially submerged into and under a Department of Commerce
6 and Consumer Protection.. Suddenly commerce comes first. I'm
7 not sure whether or not Ms. Zettel agrees with those proposals,
8 but I am very concerned that the new plan --

9 SENATOR JOHNSON: It's very clear, isn't it, that
10 not even the Governor, whom you constantly attack, has come out
11 in favor of any of the recommendations contained in that.
12 They're just recommendations that have been submitted. A
13 commission has been formed, and they'll be looking at them.

14 And I'm sure you'll be there.

15 MR. HELLER: And I would submit to Members of
16 this body, as you look at this very issue, that it's an
17 important question to ask of Ms. Zettel, does she believe that
18 the post to which you are considering confirmation should be
19 dissolved and made -- put under a Department of Commerce and
20 Consumer Protection, where the consumer protection branch,
21 according to the proposal, is simply a side bar? It's an
22 important question as you gather information to determine
23 whether or not Ms. Zettel is the right person for this job.

24 The point, perhaps, is that there are very few
25 places where Californians know that state government has
26 somebody that is strictly looking out for them when they go to
27 the automotive repair shop, when they go to buy a new bed, when
28 they go to see a doctor. The Department of Consumer Affairs is

1 the point of leverage for California consumers to be protected.

2 We are concerned that this administration wants
3 to turn it into business licensing agency and nothing more. We
4 are concerned that Ms. Zettel was brought to this position in
5 order to do that rather than to defend the rights of consumers.
6 And we believe that the record of Ms. Zettel shows that she is
7 is not right for this job.

8 I don't doubt that she may be very good in some
9 other role in California government. I do doubt that this is
10 the role for Ms. Zettel because I'm concerned that California
11 consumers will lose out, and we have to protect consumers in
12 California. That should be the priority, and we hope that this
13 Committee will consider that the administration has put somebody
14 forward who is not right for that job.

15 SENATOR JOHNSON: Next witness.

16 MS. SHAHAN: Mr. Chair and Members, I'm Rosemary
17 Shahan, President of Consumers for Auto Reliability and Safety.

18 I had hoped not to be testifying in opposition,
19 because I was hoping we'd have an opportunity to see Ms. Zettel
20 in her new job and have a new record, and perhaps eventually
21 support her.

22 Based on her record as a law maker, we have to
23 oppose.

24 And I would note that I've testified before in
25 support of nominees. This is a first for me, testifying against
26 a nominee. I testified for Sally Reid, who was Governor
27 Wilson's appointee to the Department of Motor Vehicles, and it
28 was at a time when the agency was being very -- they were taking

1 the lead nationally in prosecuting auto manufacturers that were
2 engaged in auto lemon laundering.

3 We're concerned especially because of the former
4 Assemblywoman's opposition to a lemon law bill that was
5 supported by firefighters, small businesses, safety groups. And
6 what it did was, SB 1718, Senator Sher was the author, and it
7 reduced the number of times that you have to bring your new car
8 back when it has a life-threatening safety defect, when the
9 defect is likely to be a threat to life and limb. And it passed
10 with bipartisan support.

11 Usually, historically, lemon laws have been
12 supported across the board because everybody buys cars in this
13 state. You know, it's one of those cost-cutting issues that
14 isn't even usually all that controversial.

15 And I've been advocating on lemon law issues
16 since 1979, and remember fondly when Sally Tanner's bill was
17 enacted, and there were very few dissenting votes. And this was
18 a step, going from four to two repair attempts, that other
19 states had taken. Ohio had gone to one; Texas had gone to one
20 or two; a number of other states had taken this same step. We
21 didn't see it as being under reasonable and were disappointed it
22 didn't get more support.

23 And when you consider that auto complaints are
24 the number one complaints that are filed with this agency, we
25 hope that you'll ask the nominee about enforcement of lemon law.
26 It really does affect health and safety. It's a major
27 pocketbook item for consumers, and we hope that it'll be a
28 priority.

1 CHAIRMAN BURTON: Comment?

2 MS. ZETTEL: Thank you.

3 Ms. Shahan will be pleased to know that the lemon
4 law, we have just established it to cover motorhomes as well.
5 That was just accomplished just the other day, and we're very
6 proud to --

7 CHAIRMAN BURTON: By regulation?

8 MS. ZETTEL: By regulation, yes. That was just
9 -- it happened this past week.

10 So, we will aggressively enforce the lemon law,
11 and are expanding the program to cover motorhomes.

12 As to comments that I had recommended making
13 these CPR recommendations, I will assure the Committee that the
14 first time I saw the CPR Report was the same time you did. I
15 did not author the recommendations of the CPR Report.

16 My specific involvement with CPR was an interview
17 by that committee that was charged with making recommendations
18 to streamline government to better serve California. The first
19 time they interviewed me, and the only time they interviewed me,
20 was on the Bureau of Private Postsecondary Education. It was
21 the higher education portion of CPR.

22 SENATOR JOHNSON: Move the nomination.

23 CHAIRMAN BURTON: I have a question that I forgot
24 to ask.

25 MS. ZETTEL: Sure.

26 CHAIRMAN BURTON: What's the Department's plan to
27 implement the Naturopathic Doctors Act?

28 MS. ZETTEL: We are moving forward with that.

1 Fortunately this Budget Act that you just passed and the
2 Governor just signed is providing funding, so we can commence
3 licensure within the next, hopefully, the next 30 days.

4 We have emergency regulations drafted. The new
5 Bureau Chief of Naturopathic Medicine is here. Do you want her
6 to stand up.

7 CHAIRMAN BURTON: Absolutely.

8 MS. ZETTEL: Kathy McKeever.

9 CHAIRMAN BURTON: Hi.

10 An advisory committee, have you appointed that
11 yet, or is that going to be appointed soon?

12 MS. ZETTEL: Thank you very much for your
13 appointees. Kathy has been working with them. The Governor's
14 appointees are still being interviewed, and we are prioritizing
15 that.

16 But yours have been hard at work, thank you.

17 CHAIRMAN BURTON: I'm sure they have, thank you.
18 Call the roll.

19 SECRETARY WEBB: Senator Karnette.

20 SENATOR KARNETTE: Aye.

21 SECRETARY WEBB: Karnette Aye. Senator Romero.

22 SENATOR ROMERO: Aye.

23 SECRETARY WEBB: Romero Aye. Senator Johnson.

24 SENATOR JOHNSON: Aye.

25 SECRETARY WEBB: Johnson Aye. Senator Burton.

26 CHAIRMAN BURTON: Aye.

27 SECRETARY WEBB: Burton Aye. Four to zero.

28 [Thereafter, SENATOR BRULTE

1 voted Aye, making the final
2 vote 5-0 for confirmation.]

3 CHAIRMAN BURTON: Congratulations.

4 MS. ZETTEL: Thank you very much, Senators.

5 CHAIRMAN BURTON: Michael Hersek, PD.

6 Go ahead, sir.

7 MR. HERSEK: Good afternoon, Mr. Chairman,
8 Senators.

9 I'd like to begin by introducing two people in
10 the audience. First Mr. Donald Ayooob. He's sitting right over
11 there. Don was appointed with me by Governor Schwarzenegger.
12 He's the Assistant State Public Defender. He's a terrific
13 capital litigator in the state, and he's my closest adviser at
14 the Office of the State Public Defender.

15 The second person I'd like to introduce is James
16 Rafferty. He's my domestic partner. He is in the back.

17 I've prepared and submitted a statement, and
18 you've got that. I have nothing really to add to it except that
19 I'd like to say that in the seven-and-a-half weeks that I've
20 been at the State Public Defender's Office, I've found that the
21 State PD is doing a great job. The attorneys are hard working,
22 dedicated. The entire staff is excellent, and the lawyering
23 there is exemplary.

24 With that, I'll take any questions you might
25 have.

26 CHAIRMAN BURTON: Is there a role for the State's
27 Public Defender in the habeas proceedings?

28 MR. HERSEK: Senator Burton, we have several

1 cases that are legacy cases from before the Habeas Corpus
2 Resource Center was established. Those cases are still in the
3 office, a handful of them. I think there are fourteen.

4 We haven't taken new cases with one exception in
5 the last five years, new habeas cases. And that case, there was
6 a conflict of interest with the Habeas Corpus Resource Center,
7 and we had the appeal, so that case was brought into the State
8 Public Defender's Office.

9 CHAIRMAN BURTON: The noncapital cases, the ones
10 that could be fairly long sentences, can the PD's Office move in
11 there, or should that all be private counsel?

12 MR. HERSEK: Noncapital cases.

13 CHAIRMAN BURTON: Yes.

14 MR. HERSEK: The State Public Defender's mandate
15 in the legislation that was passed, Senate Bill 513 in 1998,
16 requires our primary responsibility to be death penalty appeals
17 only, with the exception of taking a few noncapital cases for
18 the purpose of training new hires. And of course, that's the
19 best scenario. You don't want a new lawyer coming into a death
20 case.

21 CHAIRMAN BURTON: How can we make sure that the
22 attorneys are adequately trained and prepared to handle capital
23 cases so that you don't end up with a flock of appeals based on
24 competency of counsel, or whatever?

25 MR. HERSEK: I understand.

26 Yes, Don and I and the staff are working hard to
27 develop training mechanisms in-house. Taking noncapital cases
28 for the purpose of training new hires is something we're

1 considering seriously.

2 That said, our practice is at the top of the
3 criminal defense practice. Death penalty appeals is about as
4 serious a matter one can get. So, the State Public Defender has
5 historically brought in experienced and competent counsel to be
6 able to step right into that case.

7 So, there's a balance that we have to draw
8 between these experienced lawyers who already know what they're
9 doing, and are qualified to take a capital case, and hiring
10 young lawyers and training them so that we can grow the
11 community, expand the community of people actually doing this
12 work. Because of course when we hire from the private bar
13 someone who's already quite experienced, we're taking someone
14 from the private bar and bringing them into the agency, and
15 we're losing a private sector attorney who could take on a
16 capital case outside the agency.

17 So we want to do both. We want to bring in
18 experienced lawyers, and at the same time, we want to work
19 really hard to develop a larger pool.

20 CHAIRMAN BURTON: Senator Johnson.

21 SENATOR JOHNSON: No questions.

22 CHAIRMAN BURTON: Senator Romero.

23 SENATOR ROMERO: I just want to commend you and
24 the office for really doing what I consider to be heroic work.
25 It's very difficult, And you've been underfunded recently.

26 In your position, have you had chance at all just
27 to note what I would call the discrepancy in terms of how the
28 death penalty has been applied? The cases that come before you,

1 it may be a matter of the luck of the draw in which county you
2 committed the crime as to whether or not you are sent forward.

3 What observations do you have on the cases that
4 you see before us, and are there specific recommendations that
5 you might make to the Legislature that we might perhaps take a
6 look at in terms of trying to perhaps even the playing field?

7 The death penalty is there. It's going to stay.
8 It's the law in California.

9 But for someone to try to level the playing field
10 in terms of the fairness of the application of the death penalty
11 in California.

12 MR. HERSEK: Well, thank you for your compliment,
13 Senator Romero. The agency is doing some of the most important
14 work in criminal defense.

15 It's true. I think if you look county by county,
16 you'll find discrepancies in how the death penalty is applied.
17 For example, in San Francisco, where I'm from, we don't have
18 death penalties. The prosecutorial branch doesn't seek the
19 death penalty, of course. And of course, if you're in other
20 parts of the state they do.

21 That's a matter of prosecutorial discretion. And
22 if the Legislature was interested in figuring out ways to limit
23 the prosecutors' discretion in when they can seek the death
24 penalty, that is something, of course, that's available to the
25 Legislature.

26 But it is something at the county level right
27 now. The criminal justice system is like a stool. You have a
28 strong public defender, a strong court system, and a strong

1 Attorney General. And if any one of those breaks down, you have
2 a stool that won't stand.

3 So, ensuring that the system is well funded, that
4 everybody's doing their job at an optimum, is probably the best
5 way in the short run to ensure that the death penalty, when it's
6 meted out, is done in the most fair way.

7 SENATOR ROMERO: Thank you.

8 CHAIRMAN BURTON: Senator Karnette.

9 SENATOR KARNETTE: Since I knew your mother, you
10 look more like her than your father.

11 MR. HERSEK: I take that as a compliment,
12 Senator.

13 SENATOR KARNETTE: She and I were really good
14 friends. I'm glad sure she'd be very, very proud of you, as
15 your father is, I'm sure.

16 MR. HERSEK: I think she would.

17 SENATOR KARNETTE: I just have a question about
18 L.A. County. Senator Burton just commented, or maybe it was
19 Senator Romero, that they don't seek the death penalty in San
20 Francisco.

21 How does L.A. County relate to other parts of the
22 state as far as seeking the death penalty?

23 MR. HERSEK: Most of the -- a majority of the
24 death penalties come from Southern California. And L.A. County,
25 because of its size, I believe, anecdotally, produces the
26 greatest number of death penalties in raw numbers.

27 SENATOR KARNETTE: But that doesn't mean as far
28 as the population. There might not be as many compared to

1 others.

2 MR. HERSEK: That's true. I'm not sure of that
3 statistic. The State Public Defender doesn't actually collect
4 data regularly across the board on the death judgments as broken
5 down by county.

6 SENATOR KARNETTE: One of the things we discussed
7 earlier was the fact that people have to wait on death row so
8 long. If there was something we could do legislatively, but
9 evidently money is about the only way to go? Get more money to
10 the courts?

11 MR. HERSEK: Yes, Senator.

12 Money is the principal issue in two ways, of
13 course.

14 The backlog in defendants who have been sentenced
15 to death, the backlog in their getting counsel is four to five
16 years, as we talked about. And that backlog is through the
17 California Supreme Court, is actually in the California Supreme
18 Court.

19 Now, we can relieve some of that backlog by
20 having increased staffing, but ultimately it's going to --
21 there's going to be a requirement of the private bar to take on
22 some of that backlog.

23 Now, the backlog is decreasing, and it has been
24 decreasing over the last six to seven years, when Senate Bill
25 513 was passed. But in that same period of time, the State
26 Public Defender's Office lost about 20 percent of its staff, of
27 its attorney staff, of its positions. And so, at the same time
28 we were making progress, now we've taken two steps back,

1 unfortunately.

2 But funding the institutions, both the Habeas
3 Resource Center and the State Public Defender, would be the
4 principal way at this point to decrease the delay in getting
5 appointment of counsel.

6 SENATOR KARNETTE: I wish as a Legislator, I wish
7 there were something that we could do to make -- and as Senator
8 Romero, I think we ought to look at fairness, absolutely.

9 MR. HERSEK: I know myself, and I probably
10 shouldn't speak for Michael Lawrence at the Habeas Corpus
11 Resource Center, but I'm sure Mr. Lawrence and I, and
12 Mr. Millman over at the California Appellate Project, would be
13 happy to meet with both of you Senators and look into these
14 issues, and try to develop strategies to address your concerns.

15 SENATOR KARNETTE: Thank you.

16 MR. HERSEK: Certainly.

17 CHAIRMAN BURTON: Witnesses in support?
18 Witnesses in opposition?

19 Call the roll.

20 SECRETARY WEBB: Senator Brulte.

21 SENATOR BRULTE: Aye.

22 SECRETARY WEBB: Brulte Aye. Senator Karnette.

23 SENATOR KARNETTE: Aye.

24 SECRETARY WEBB: Karnette Aye. Senator Romero.

25 SENATOR ROMERO: Aye.

26 SECRETARY WEBB: Romero Aye. Senator Johnson.

27 SENATOR JOHNSON: Aye.

28 SECRETARY WEBB: Johnson Aye. Senator Burton.

1 CHAIRMAN BURTON: Aye.

2 SECRETARY WEBB: Burton Aye. Five to zero.

3 CHAIRMAN BURTON: Add Senator Brulte on the other
4 appointees.

5 Thank you and congratulations.

6 MR. HERSEK: Thank you.

7 [Thereupon this portion of the
8 Senate Rules Committee hearing
9 was terminated at approximately
10 3:30 P.M.]

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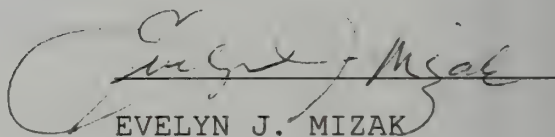
CERTIFICATE OF SHORTHAND REPORTER

I, EVELYN J. MIZAK, a Shorthand Reporter of the State of California, do hereby certify:

That I am a disinterested person herein; that the foregoing transcript of the Senate Rules Committee hearing was reported verbatim in shorthand by me, Evelyn J. Mizak, and thereafter transcribed into typewriting.

I further certify that I am not of counsel or attorney for any of the parties to said hearing, nor in any way interested in the outcome of said hearing.

IN WITNESS WHEREOF, I have hereunto set my hand this 13th day of August, 2004.


EVELYN J. MIZAK
Shorthand Reporter

APPENDIX

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July 29, 2004

Victoria L. Bradshaw**Statement of Priorities and Goals for the Labor and Workforce Development Agency**

The Labor and Workforce Development Agency (LWDA) was established in 2002 to address the important issues relating to California workers, as well as their employers. The Agency is primarily responsible for three different types of functions, including:

1. Labor Law Enforcement;
2. Workforce Development; and
3. Benefit Payment and Adjudication.

These activities are spread out over the 12 boards, 43 divisions, and 2 departments comprising the Agency.

I believe there are significant opportunities in each of the three activity areas. One of the important contributions I can make to the Agency's mission is to assist in finding common ground on a variety of very complicated and often controversial issues amongst constituencies and interest groups having long histories of mutual distrust. Over the past several months I have brought together stakeholders on both sides of these issues to focus decision-making on goals related to good public policy.

Labor Law Enforcement

I am a firm believer that labor laws must be vigorously enforced. Our labor law enforcement focuses on the "bad actors" to help create a level playing field benefiting both California employers and workers. The public also benefits because most of the unlawful employers operate in the underground economy, which not only undercuts the legitimate companies and their employees, but also deprives the state of much needed tax revenue. Focused enforcement on problem employers is one of the areas that both business and labor fully support. The priority of the enforcement functions within the Labor Agency will be focused on the following:

1. Enforcement to combat the underground economy;
2. Enforcement focused on unlawful employers in those industries that not only have histories of labor law violations, but also attract large numbers of potentially vulnerable workers;
3. Ensuring that the state's public works laws are appropriately enforced; and
4. Leveraging our enforcement dollars to take advantage of complementary and overlapping efforts within federal, state and local jurisdictions.

This year, even in light of tough budget choices, we were able to maintain our enforcement budget, the majority of which is general fund monies. Our priority within the enforcement divisions is to ensure that those resources go towards building the capacity of our field investigations rather than augmenting administrative activities. We are also placing a priority on partnering with other state, local and federal agencies to maximize our enforcement and educational efforts and eliminate any unnecessary duplication of work.

Workforce Development

One of the important keys to growing a vibrant California economy is the development of a skilled workforce. Without such a workforce, businesses requiring special talents and competencies will choose to move their businesses and jobs to other states or countries. These jobs are usually high wage, stable jobs; the jobs most communities seek to attract. In order to compete in the global economy, California must have an effective workforce development plan to produce a workforce that will meet the ongoing needs of a changing economy.

This year the Agency developed three policy priorities for the expenditure of its discretionary federal and state workforce development monies. This was the first time policy priorities were established to ensure the monies spent were aligned with California's workforce development goals. These priorities are the expenditure of monies on:

1. High wage, high skilled, high growth jobs

These are the jobs that require special training and pay wages that allow Californians to live a lifestyle consistent with the goals and aspirations most people have for themselves and their families.

2. Jobs at the bottom of the career ladder

The majority of individuals in this category have barriers, which prevent them from moving up the career ladder to better paying, more stable employment. Workforce development monies spent in this category assist workers to overcome such barriers as language, disability, lack of education, etc. to gain the skills necessary to advance to jobs providing more financial security.

3. Jobs having a statewide concern

Some jobs are important to the well-being of all Californians and, therefore, deserve special consideration. An example of one such occupation would be nursing. It doesn't matter who you are or what you do for a living, having a strong healthcare system is important. These workforce development monies go towards developing the training and capacity to train nurses to fill the growing need and demand for this profession.

California currently has nearly 100 different funding streams that are related in some way or another to workforce development. While it may be impractical to consolidate all or most of these, it is important to coordinate their efforts to ensure common goals, to eliminate wasted funds, and to reduce duplication. To that end, I have been meeting with the California Community Colleges, California Department of Education, local workforce development boards, and other stakeholders to ensure the most effective use of California's limited workforce development funds.

Benefit Payment and Adjudication

The Agency has responsibility for a variety of benefit programs, all of which are mandated and regulated by either state or federal law. These programs include:

1. Workers' Compensation Insurance

The Division of Workers' Compensation (DWC) has been working to enact all the reforms included in the recent legislation. With the change to user funding, the DWC has been increasing staffing levels to fully implement the changes required by the new laws. The goal is to effect all possible workers' compensation program savings outlined in the recent legislative reforms and to streamline the benefit delivery system.

2. Unemployment Insurance

A structural deficit exists in this program, which basically means the amount of benefits paid out each year exceeds the monies paid into the program. We have been meeting with representatives from both labor and business to:

- a. Find common ground on issues and possible solutions;
- b. Ensure all parties fully understand the outcomes of proposed decisions and their potential long-term, unintended consequences;
- c. Understand the various impacts that solutions have on different industries and employee sectors; and
- d. Fully evaluate the cost impact of all proposed solutions.

Both labor and business are developing proposals to address this complicated issue. The Administration is also reviewing the realistic options available.

2. State Disability Insurance

We are striving to provide greater administrative efficiencies within this program. Proper coordination of benefits with the workers' compensation insurance program will be a priority.

3. Paid Family Leave

The Paid Family Leave Program began paying benefits for the first time on July 1, 2004. The goals to date have been focused on implementing the

administrative mechanism to efficiently pay legitimate claims, developing the regulations required to put the program into effect, and instituting a communications program to ensure that both employees and their employers understand the program's benefits and obligations.

As you know, the Agency is rather young by traditional government standards. With the help of many talented civil servants employed under its umbrella, I hope to further the goals set for it upon its creation in 2002. Chief among them is the opportunity to better serve the workers and employers of this state by coordinating its many services and programs in an efficient, effective manner that is always relevant to current and future economic conditions. The mission of the Agency is a noble one and I will be honored to continue serving as Secretary.

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**Statement of Goals
Of
Jose H. Millan**

As Deputy Secretary of the California Labor and Workforce Development Agency (LWDA) I intend to enhance the ability of the Agency in fulfilling its mission to vigorously enforce the state's labor laws. This is necessary in order to provide a level playing field for compliant employers, and to provide the necessary protection for the state's workforce.

By pursuing a vigorous enforcement program primarily directed at those who participate in the Underground Economy and those who willingly and knowingly violate the law in order to obtain a competitive advantage over law-abiding employers, it is possible for the State to attract and retain other businesses who wish to establish here. In turn, by assisting compliant businesses through the suppression of their unfair competition, should enable those businesses to prosper and lead to higher employment of workers at better wages.

An improved enforcement program should also be directed to protect the state's workforce, many of whom are recent immigrants, and find themselves vulnerable to exploitation. These workers are deserving of enhanced protection from the state since many lack the necessary linguistic skills and sophistication to navigate through the maze of government agencies that are set up to protect their rights. This is why I plan on enhancing the Agency's outreach efforts in order to communicate and educate the state's workforce concerning their rights under various labor laws.

Additionally, I plan to improve the efficiency of the state's workplace enforcement resources through improvements in coordination and communication among the various Agency entities that are involved in these efforts. Improvements in communication and coordination will lead to a better use of the resources given to the Agency and will lead to enhanced protections for the state's workforce. To this end, I have initiated various Memoranda of Understanding (MOU's) among various agencies both within the LWDA and outside of it, along with a revised to system to monitor the effectiveness of the MOU's.

I plan to work very closely with the Division of Labor Standards Enforcement (DLSE) to monitor the development of the case management system, to ensure that it delivers a product that serves the Agency's interest in collecting and maintaining wage claim and labor law violation data, and to also ensure that it incorporates the very latest technology that can be used to assist the enforcement program in enhancing its efficiency.

Some of the enforcement programs that I have initiated at LWDA since my appointment on February 17, 2004, have included:

- New Employer Forums:

These forums are designed to take place at the invitation of California's legislative and congressional members. They are directed to new employers who have had no previous experience in employing workers in the state so that they may obtain the benefit of some training and orientation of basic state and federal wage and hour, workplace health and safety and employment tax laws.

The first New Employer Forum was held at the invitation of Assembly member Gene Mullin in his district on May 21, 2004, and was attended by 95 participants. The next New Employer forum is being planned for September 9, 2004 in Assembly member Guy Houston's district. Additional New Employer Fora are available at the request of and in partnership with the legislative and congressional membership staff.

- Joint Enforcement Strike Force:

The Strike Force has been reorganized in order to streamline operations and make it easier to respond to complaints of underground economy activity. The result will be an overall improvement in communication and an enhancement of the effectiveness among all member agencies participating in the strike force. Additionally, the strike force is planning to engage private stakeholders who can assist in the overall enforcement efforts of the various agencies included within the strike force.

- Stakeholder Information Meetings:

There have been various informational meetings that have been held with stakeholders involving compliance issues. I plan to continue holding and also expand such meetings in the future. One meeting was held with representatives of the retail industry on April 15, 2004, where the provisions of Labor Code Section 2810 (SB 179), as they relate to the contracts entered into for janitorial services within the retail industry was discussed. A similar meeting was held with the realtor's association on the need for real estate brokers to obtain workers' compensation insurance coverage for their sales staff.

- Establishment of Enforcement Partnerships:

By leveraging all available enforcement resources, and through the development of cross training and the signing of MOU's, it is possible to better and more efficiently utilize the enforcement resources that are available at the state, federal and local levels. It is through a more effective enforcement partnership between the state and federal governments that has resulted in the collection of back wages to the workers of a Los Angeles-based garment contractor, Mi Angels, within weeks of the case being filed. It is my plan to continue to expand on such cooperative arrangements.

- Enhanced Enforcement Through Technology:

I am a firm adherent in the belief that government should always be vigilant to any technological assistance in the efficient delivery of its services. For this reason I plan to explore the possibility of linking together several existing licensing and economic interest data bases containing public information at the local, state and federal levels. In doing so, this information can be better utilized and assist the Agency's overall enforcement program to operate more proactively and efficiently in targeting and citing labor law violators.

- Low Wage Worker Forum:

The purpose behind the development of the Low Wage Worker Forum is two-fold: First, they are designed to bring various state and federal agencies together to discuss with workers outside of the workplace any complaints they might have concerning their employment and to provide information concerning workplace labor and employment issues.

Secondly, the forum is designed to provide information and assistance to workers on enhancing and building upon their job skills and training, so that they can move ahead on a career path to higher-paying jobs. Since many workers have to spend their daytime hours either working or looking for work, and many do not have access to government Internet sites, having the forum take place during non-business hours will allow them to access this type of information and assistance.

Two such outreach events are presently planned: on July 29, 2004, in Fresno and on August 24, 2004 in Los Angeles. Additional low wage worker events will be planned after evaluating the outcome of these events.

- Enhanced Outreach to Non-English Speaking Workers:

I plan to organize other employee outreach efforts in the future directed at the non-English speaking workforce in California. One effort underway is the development of a workplace health and safety awareness campaign directed at limited or non-English speaking workers so that they can be made more aware of workplace hazards, and the fact that the law provides them with a basis to refuse work that could result in the likelihood of serious harm or injury.

Another outreach effort underway is the outreach to the Hmong population in central California that continues to arrive in the state from refugee camps in Thailand at the rate of 2,000 per month. It is hoped that early intervention and informational awareness will result in helping the Hmong to become better integrated into the social fabric in California and to become better educated workers and employers.

Finally, in recognition of the fact that these enforcement program efforts and initiatives, while worthwhile, do utilize existing resources, I plan to devote my efforts to identify new alternative sources of funding to supplement but not to replace the current funding the enforcement program of the LWDA currently receives.

MEMBERS

ROSS JOHNSON

VICE-CHAIR

JAMES L. BRULTE

BETTY KARNETTE

GLORIA ROMERO

GREGORY SCHMIDT
SECRETARY OF THE SENATENETTIE SABELHAUS
APPOINTMENTS DIRECTOR**SENATE RULES COMMITTEE**JOHN L. BURTON
CHAIRMAN

June 25, 2004

Thomas Michael Johnson, Secretary
Department of Veterans' Affairs
1220 O Street
Sacramento, CA 95814

Dear Secretary Johnson:

To assist the Senate Rules Committee prepare for the confirmation hearing on your appointment as Secretary of Veterans Affairs, I am requesting you respond to the following questions that we would like you to address in writing prior to the hearing. The answers to these questions will give us some basic information in advance so that Senators might conduct a more informed discussion with you at the hearing. Please have this information in our office by July 14, 2004.

Question

1. Please provide us with a brief statement of goals. What do you hope to accomplish during your tenure as Secretary of the Department of Veterans Affairs?

New Homes, Quality of Care and Future of the Department

In recent years, the department has been criticized and sanctioned by the federal government for the quality of care at the state's veterans' homes. At the same time, the California voters and Legislature authorized the building of additional homes. When these homes open, there will be a significantly greater number of facilities available to assist veterans.

Questions

1. Compare the medical and social needs of the current residents of veterans' homes, and residents seeking assistance in 2020. Please speak specifically to the changing demand for medical treatments and facilities. To what extent will different treatments change the department's operating and capital budgets?



2. The department will increase its management responsibilities when it builds and operates the new homes. Given the department's history of significant management problems, on what basis can you assure the committee that the problems identified at the existing homes will not be repeated? Do you expect to change the department's management model to accommodate new responsibilities? If so, what changes will you make? Do you anticipate identifying standards to measure progress in improving management at the department? If so, what are the standards?

Undercollection of Reimbursements

In the 2002-03 budget, the Legislature directed the Department of Finance to audit internal controls at both the Department of Veterans' Affairs and its homes. In its report, published on May 9, 2003, the Department of Finance reviewed Medicare reimbursements, staffing levels and practices at Holderman Hospital. It concluded that the department needs to improve the documentation of and billing for reimbursements. In reviewing the management of the collections inventory, the Department of Finance found that "[it] is difficult to identify the quantitative value of any improvements the department or the home might make and more difficult to determine the related effect on revenue.... This is particularly true because so little is known about the collectible portions of the department's accounts-receivable balances." This finding echoes the legislative analyst, who said in 2002, "...it is unclear to what extent reimbursements for Medi-Cal and Medicare services, as listed in the Governor's budget, represent the full amount due [the state]. This is because the department currently does not have the data needed to determine the level of reimbursement revenue the department should be collecting..."

Questions

1. The Department of Finance reported that Veterans' Affairs has an insufficient system for aging its accounts. As a result, the department cannot actively manage the accounts with the highest return, nor can it ensure that it is working the accounts on a timely basis. Will the department develop a system for aging the accounts receivable? If so, how will it ensure the highest returns on accounts receivable?
2. In last year's budget, Veterans' Affairs reduced its expected federal reimbursement levels to be about half what it had budgeted for 1999-00 through 2002-03. Even with this adjustment, the department is not generating reimbursements at the budgeted levels. Why is the department experiencing continued erosion of reimbursement levels? On what basis does the department estimate reimbursement levels for the budget? To what extent do historical reimbursement levels properly measure whether the department is maximizing its reimbursements?
3. On what basis can the department assure the committee that it is collecting all the reimbursements due the state? Is there a plan for improving collections (please provide relevant dates and performance measures)?

Disabled Veteran Business Enterprise

In July 2002, the state auditor found that the state struggles to attain the statutory program goals of the Disabled Veteran Business Enterprise program.

Question

1. In what ways does the department monitor compliance with, or enforcement of, the goals of the Disabled Veteran Business Enterprise program? Over the next 12 months, what specific actions will the department take to improve participation?

Please direct your response to Nettie Sabelhaus, Rules Committee Appointments Director, Room 420, State Capitol, Sacramento, CA 95814.

Thank you for your help,

Peace and friendship,

JOHN L. BURTON

JLB:nsdm

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**California Department of Veterans Affairs
Secretary Tom Johnson's Responses to the
California State Senate Rules Committee
July 14, 2004**

Goals Question

- 1. Please provide us with a brief statement of goals. What do you hope to accomplish during your tenure as Secretary of the Department of Veterans Affairs?***

At the end of my tenure, I would have accomplished my goals if the past issues of the Department were laid to rest and the Department becomes known for excellence. This would include excellence in service, communication, fiscal accountability, human resource practices, and results.

My first goal is to build a team of committed and highly skilled professionals to carry out the work of the Department. This includes selecting the right people, providing training to managers and providing the right work environment for the staff. My plan is to recognize staff members for the work they do, communicate with them, provide education as needed, engage them in the mission and create an environment for success. A by-product of this goal, in addition to improved management and better service to the veterans, is to see fewer personnel actions arise, such as harassment suits, charges of discriminatory practices or workers compensation issues. The working environment and human resources practices need to improve throughout the Department so that we can focus our energy on our mission of serving veterans.

My next goal is to measure more accurately and consistently how well we are accomplishing our service goals. Are we improving in our loan processing time? Are the veterans we serve satisfied with the service we provide? Are we performing within our budget? Are we improving the quality of our care? These and other "metrics" or measurements are very important to evaluating our progress or in determining where we need to improve. My ultimate objective here is to see less need for audits, investigations or hearings because of a higher level of accountability and quality monitoring within the Department.

JUL 15 2004

Another important goal is to improve our communications with all of our constituents, including the Governor's office, the Legislators and your staff and the Veterans Service Organizations. Consistent, reliable and timely communication, including the "bad news," is vital to maintaining the credibility of the Department. My objective here is to have the Department viewed as having the highest level of integrity and professionalism so that our constituents won't have to double check our information or be compelled to check the "rumor mill" for information. It is hard to "over communicate" but my goal is to err on that side rather than to have constituents caught by surprise. When and if that does happen, however, we will be quick to apologize and make the necessary improvements in our communication system.

There are also numerous programmatic and operational goals that we will pursue. Among them are the following:

1. Achieving full Medicare and MediCal certification in Barstow as soon as possible and thereafter expanding the capacity.
2. Completing the working drawings, opening the bids and beginning construction on the 3 new Veterans Homes in the Greater Los Angeles and Ventura Counties (GLAVC).
3. Starting the planning for the Fresno and Redding Homes as soon as we have the disbursement authorized from the USDVA for the GLAVC project.
4. Opening the Northern California State Veterans Cemetery on Veterans Day, November 11, 2005.
5. Transitioning the MediTech system into an updated system that will ultimately lead to an electronic medical record, better decision-making tools and improved functionality. The transition will be preceded by and accompanied by additional training for staff to improve accuracy and timeliness of data input. If we decide to retain MediTech and transition to their Long Term Care system, this process will be complete by July 2006. If we select another system it will take an additional year. The decision will be made within the next year.
6. Developing a computerized timekeeping system that will integrate with the state payroll system, improve our cost accounting process and result in less management hours in payroll oversight. Develop request for inclusion in the FY 05-06 budget.
7. Completing a business plan for the CalVet loan division by September 2004. This plan will have contingencies that depend upon the passage of HR 1742 by

Congress. Regardless of the contingencies, my goal is to reduce the application and processing time thru further automation and to reflect the user-friendly standards of the industry.

8. Achieving the national average in our percentage of veterans that receive compensation and pensions from the USDVA. If we can reach the national average we can bring to deserving veterans in California an additional \$272 million dollars per year. This goal requires close working relationships and a cooperative effort with the USDVA Regional Offices, County Veteran Service Officers and Veterans Service Organizations.
9. Maximizing the use of our assets. We will look at all of our contracts over the next 6 months (i.e., Rector reservoir, golf course, facility contracts, etc.) in order to maximize revenues and/or minimize expense. We will also consolidate offices in our headquarters building and open up two floors for leasing and will close two underutilized Cal Vet loan offices by December 2004.
10. Maximizing reimbursement while reviewing opportunities to reduce expenses at the Veterans Homes. The maximization of reimbursement is discussed at length in the answer to a following question. The reduction of expense will focus on new ways of providing services to our Veterans, including the use of VA systems for pharmacy support, the use of contracts for medical care and the reduction of traveling nurse expenses. This goal will be pursued throughout FY 04-05.
11. Investigating opportunities to further leverage the Department's budget by foundation giving or grants. Recently \$3.3 million dollars was given to fourteen California agencies by the U.S. Department of Labor for job training and assistance to homeless veterans. Federal Dollars that help us serve veterans or philanthropic dollars that support the Veterans Homes are opportunities we will explore.

New Homes, Quality of Care and Future of the Department Questions

- 1. Compare the medical and social needs of the current residents of veterans' homes, and residents seeking assistance in 2020. Please speak specifically to the changing demand for medical treatments and facilities. To what extent will different treatments change the department's operating and capital budgets?***

The number of California residents age 65 and over is projected to nearly double by the year 2025. The number of California resident's age 85 and older is likely to more than double in this same time period. However, because more older Californian's have the desire to live independently or to receive care at home and they have the ability to achieve that goal, the use of nursing homes may not increase at the same rate.

Nevertheless, the demographics of our veteran population suggest that the Veterans Homes we are now building will be put to good use and will meet the evolving needs of our Veteran population.

Specifically, the new Dementia/Alzheimer's facility at Yountville and the Dementia/Alzheimer's unit in the planned West Los Angeles Veterans Home are important additions to our service capabilities. As the average age of our Veteran population increases, more Veterans are projected to need this type of service.

In addition, more Veterans will be interested in remaining in their own home and retaining as much independence as possible. Thus, our planned Adult Day Health Centers in Lancaster and Saticoy will address that need in these locations.

Another trend is the increasing acuity of those who are cared for in Veterans Homes. The USDVA is less interested in supporting the construction of a domiciliary level of care in favor of more skilled or intermediate level beds. The residents we see in skilled nursing used to be cared for in the acute care settings and the residents in RCFE (Assisted Living) are now the ones who formerly were in skilled units. Reflecting this change, there are no domiciliary beds planned in any of the new homes.

Finally, the psycho/social and medical needs of the Viet Nam era Veteran will need attention as we care for more Veterans from this era. Most of this care can be provided as part of the programs in our Veterans Homes or as specialized programs within USDVA and the close partnership we establish between state homes and their surrogate VA Hospital is a

key to meeting these needs. Also, many of these programs are moving from in-patient to out-patient based settings so they are becoming less capital intensive. How the health needs, (particularly Post Traumatic Stress Syndrome) of the recent veterans will affect the future requirements of Veterans Homes is unclear.

The Department's operating budget will primarily be affected by the shortage of health care professionals, not by diagnostic or programmatic changes. The shortage of Registered Nurses and other healthcare professions is a statewide problem and one in which I am personally engaged as Board Chair of the California Institute of Nursing and Healthcare. Working with the Governor's office, the Legislature and with appropriate state agencies to address these health professions issues will be one of our top priorities.

Since the USDVA requires the beds we construct to be interchangeable for varying levels of service, capital modifications will generally not be an issue for our new homes. However, two exceptions are noted. First, as higher acuties occur, a more sophisticated room will be required to include piped in oxygen, piped in air or monitoring devices. This could be done either as a retrofit or in initial construction, to meet this higher level of care.

Second, the privacy and independent issue may require more room modifications that allow for each resident, especially in ambulatory units, to have access to their own bathroom or to a shared bathroom with another person. This is being factored into our new homes that are currently being planned.

Overall, I believe our Department is well positioned to carry out our mission for veterans for the years thru 2020. However, I will be requesting the addition of a Chief Nurse to our Department who has expertise in gerontology and a record of long term care leadership. . Our goal is not to "warehouse" veterans but to give them the highest quality of care and the highest quality of life for their remaining days. To be sure that we have the right practices and policies in place to achieve that goal I am in the process of searching for this nurse to help the Homes achieve that goal.

2. *The department will increase its management responsibilities when it builds and operates the new homes. Given the department's history of significant management problems, on what basis can you assure the committee that the problems identified at the existing homes will not be repeated? Do you expect to change the department's management model to accommodate new responsibilities? If so, what changes will you make? Do you anticipate identifying standards to measure progress in improving management at the department? If so, what are the standards?*

A report by the California Healthcare Foundation in July 2003 was entitled: "California's Nursing Homes: A System in Trouble." One disturbing fact they reported is that the turnover rate for the nursing staff in freestanding nursing homes averaged 69%. It is hard to promote quality, to establish a sense of ownership in the mission or to develop a good team when you have such a turnover. People just "wait you out" because it won't be long until a new series of leaders, priorities or ideas will come along.

The Department, over the past eight years, has been the focus of numerous studies. The single major problem distilled from these reports is not one of structure but one of leadership. Thus, structure will change very little, with one exception. I expect to consolidate some services, such as our marketing departments and our service departments to provide for better coordination, consistency of direction and career mobility. However, the philosophy will change in three ways. I believe in decentralization of decision-making and problem solving. This means that the managers and staff must know the mission, must be committed to the mission, must be well trained and feel empowered. Second, I want the philosophy to reflect excellence in all we do. For too long this Department has been shackled with a reputation of poor communication, mediocre management and substandard performance. Whether it is the letters we send out, the phone calls we return or the appearance of the building, a pledge to keep improving and a commitment to excellence will be our philosophy. And third, I will emphasize teamwork and inter-departmental as well as intra-departmental cooperation.

With regard to measurement, I would expect to add measurements in the area of the speed with which we accomplish tasks, the accuracy, the quality, the satisfaction of those we serve and the cost. The "metrics" of what we do are as important as the mission.

I have a specific goal of transforming the old "cafeteria" (currently unused) on the third floor of the Veterans building into a "Mission and Metrics Center" so that we can

concurrently celebrate and recognize the staff, the Veterans we serve and the results that we measure.

The standards we will use for measuring our progress or our success will be a combination of industry-based standards and budget based standards. Industry based standards abound in healthcare in such areas as medication administration errors, falls, skin breakdowns and infections. In some of our other areas, like Veterans Services there are fewer standards and we will be establishing our own benchmarks. For instance there have been no satisfaction surveys done to help us identify areas for improvement. On the other hand, the escrow department does do satisfaction surveys but they are not widely shared. Most of these and other measurement tools will be in place by December 2004, with all of them in place within the next year.

Internally I am also directing that we have some benchmarks on work time lost, EEO complaints, workers compensation claims and grievances so that we can track the needs for education, safety classes or improvements made in our H.R. program and in our management training.

Undercollection of Reimbursements Questions

- 1. The Department of Finance reported that Veterans Affairs has an insufficient system for aging its accounts. As a result, the department cannot actively manage the accounts with the highest return, nor can it ensure that it is working the accounts on a timely basis. Will the department develop a system for aging the accounts receivable? If so, how will it ensure the highest returns on accounts receivable?***

The Department's Accounts Receivable management was changed in January 04. Since that time, the new Manager and Information Systems staff has done an outstanding job analyzing and changing the business practices and enhancing the accounts receivable system for billing and managing medical accounts receivables. Effective with the July 2004 accounts receivable report or shortly thereafter, the Department will have a reliable accounts receivable aging process, and written desk procedures documenting the billing and collection process. The updated accounts receivable reports will provide management with tools to monitor its aging accounts receivable and cash collections. This will be monitored monthly.

Our continuing challenge is to insure that the staff is inputting information in a timely and accurate manner. For instance, if TARs (Treatment Authorization Requests) are not requested or received prior to the treatment it may result in a receivable that is either uncollectible or delayed. Another example is when complete information is not provided resulting in a delayed bill. Staff training and accountability are areas we will focus on this year.

In acute care hospitals a single number, days of revenue in accounts receivable, is tracked to ascertain if there is a receivables problem. If the number goes up, beyond a benchmark or a budgeted expectation, drilling down into the data will isolate the problem. In the Veterans Homes, because only 10% of the revenue comes from Medicare/Medi-Cal or private insurance billings, such a gross number may not be useful. Instead we will focus on the billing que and develop a benchmark for the length of time between the rendering of the service and the sending of the bill and monitor this monthly. The establishment of this benchmark, along with a focus on a third party billing processes, will be a task accomplished in the next twelve months.

One caution should be noted. When the information system upgrade (MediTech or its successor) is implemented this will automatically spike the AR as the learning curve is managed. We will do our best to mitigate any increase.

2. In last year's budget, Veterans' Affairs reduced its expected federal reimbursement levels to be about half what it had budgeted for 1999-00 through 2002-03. Even with this adjustment, the department is not generating reimbursements at the budgeted levels. Why is the department experiencing continued erosion of reimbursement levels? On what basis does the department estimate reimbursement levels for the budget? To what extent do historical reimbursement levels properly measure whether the department is maximizing its reimbursements?

- The Department reduced its expected federal per-diem reimbursements as a reflection of a reduced number of residents. Primarily this occurred due to the slow build-up of Chula Vista (required by DHS) and the closure of most of Barstow. About 18% of our revenue comes from VA per diems so as the number of residents does not meet budget, this creates a significant shortfall.

- The Department did experience erosion of Medicare and Medi-Cal reimbursement since 1998-99. The primary reasons for that erosion are:
 - A change in the components of the medical care system at Yountville with the closure of the 16 bed ICU unit and the loss of two surgeons.
 - Inappropriate changes to baseline appropriations. During the period from the 1997-98FY to the 2000-01FY, \$640,000 of the increase in annual General Fund Reimbursement authority resulted from fund-splitting allocations that were not reimbursable by third party payers.
 - Changes in census. Current acute care census is 31% of 1997-98 acute care census. Current skilled nursing care (SNF) census is 89% of 1997-98 SNF census. Acute and SNF care are the only sources of Medicare Part A and primary sources of Medi-Cal billable services. The reductions of census in these areas equate to a loss of \$1.3 million in Medicare Part A and \$400,000 in MediCal receipts.
 - Changes in Medicare reimbursement rates. Medicare payments were reduced through the federal Balanced Budget Act of 1997 and its subsequent revisions. A flat rate, prospective payments system was introduced in 1997, which complicated the ability to accurately predict receivables.
- The effects of this erosion are now incorporated into the baseline. The Department of Finance, the Legislative Analyst's Office and the Senate and Assembly budget committees have concurred with the department's explanation in understanding why the budget target grew while the reimbursement levels remained relatively flat.
- Reimbursements (in Yountville) have never exceeded \$8 million per annum. The department is on track to collect \$6.6 million this year. Our monthly collections report indicates that we are collecting money faster than any prior year since the 1997-98FY. Through May, we have collected \$3.6 million in Medicare and Medi-Cal money. We had collected only \$1.6 million at the same point in the 1999-00FY and \$1.3 million in the 2000-01FY.

- The department estimates reimbursements based on a formula, reviewed by the Office of State Audits and Evaluations (OSAE), that uses the most recent 18 month historical trend on both payment rates and incidence of services by billable types, e.g., acute care number days and payments per day received during the 18 month period. This formula provides a reliable predictor of future collections. Potential collections could still be impacted by radical census changes or service delivery changes not considered at time of budget preparation but, generally, the methodology will smooth rate variances by using the most recent payment rates and experience.

3. On what basis can the department assure the committee that it is collecting all the reimbursement due the state? Is there a plan for improving collections (please provide relevant dates and performance measures)?

On May 27, 2004, I sent a letter (attached) to Senator Chesbro, Chair of the Senate Budget Committee, pledging my commitment to excellent business practices and describing specific improvements that have been made and will be made at the Veterans Home. The most important factor in reimbursement receipt is maintaining Medicare and Medi-Cal certification at the Veterans Homes through management of our home operations. The second most important factor is occupancy of our homes. Perhaps a third issue is the numerous personnel issues that have faced the homes and the revolving door of leadership. As the new Deputy Secretary of Homes, Bill Parente, assumes his role I have given him as one of his top priorities the continued improvement of our reimbursement system. Such improvement will include:

- Continual training of professional and billing staff.
- Continual interdisciplinary discussions to identify opportunities and solve billing problems.
- Sharing of expertise between homes and headquarters.
- Review of our charge description master
- Reviewing eligibility standards.
- Installing a cost accounting system.

Now that we believe the baseline expectation is accurate, absent any external forces affecting receivables (such as reductions in Medicare reimbursement, withholds from MediCal, etc.), the Budget will be our primary measurement for performance on receivables.

Disabled Veterans Business Enterprise Questions

1. *In what ways does the department monitor compliance with, or enforcement of, the goals of the Disabled Veteran Business Enterprise program? Over the next 12 months, what specific actions will the department take to improve participation?*

The Disabled Veteran Business Enterprise (DVBE) program is a uniquely organized program where I advocate participation by both contracting agencies and disabled-veteran business owners, but Department of General Services (DGS) actually administers the program. As such DGS and DVA must ensure that our efforts are coordinated to ensure the administration's efforts do not have divergent goals. Additionally, the DVBE program sets participation goals but does not provide for any enforcement action. Historically the department has monitored attainment of DVBE goals by reviewing individual departments' annual reports and review of DGS's annual summary report. I intend to take a more proactive role as discussed below.

As an advocate of the DVBE program I am concentrating on outreach efforts to 1) the DVBE community and potential DVBE business owners; and 2) to departments, agencies, boards and commissions within state government. My specific actions over the next twelve months will include:

- Increase program awareness within the senior levels of the Administration.
 - I have already released a joint letter with Secretary Aguiar (State & Consumer Services Agency) regarding last year's DVBE participation results and requesting Agency Secretaries' full support to meet the 3% goal for the new fiscal year.
 - I am seeking to establish administrative procedures that will add visibility, at the Cabinet level, to program participation, particularly to corrective action plans and to departments that fail to make timely reports or that fail to report at all.
- Increase DVBE participation in any DVA construction projects.
 - Since I was appointed, the first two construction contracts funded by the Veteran Home Bond Fund have an average participation of 4.1% (9.79% and 0.4% respectively).
 - I have requested DGS to set a goal of 5% DVBE participation on the remainder of DVA construction projects.
 - The cemetery construction contract bidding process has had a more aggressive outreach to facilitate DVBE participation. (This contract will be awarded within the next few months.)

- Increase program awareness within veteran services organizations and the veteran community in general.
 - Since the beginning of March I have had staff attend 13 veteran, veteran related and business conferences to promote the program. These efforts will continue.
- Take a marketing approach to business outreach efforts
 - Establish a DVBE program "branding" to increase program visibility and awareness.
 - Work with DGS to initiate a regular survey of new DVBE businesses to understand how they learned of the program, why they are becoming certified, what they expect to gain from the program, what additional information do they feel they need to be successful, etc.
 - Take the results of the survey and work with DGS to focus workshops on training new DVBE to be successful.
 - Survey businesses that chose not to re-certify; to understand why they are leaving the program.
 - Establish a liaison with the GSA Service Disabled Veterans Owned Small Business (SDVOSB) program and investigate linkages that will help California based DVBEs.
- Establish an intra-governmental outreach program.
 - Hire staff in an existing vacant position.
 - Identify "best practices" within departments who currently meet the participation goal.
 - Working with DGS, and using the existing quarterly DVBE Advocate meetings, educate departments on best practices to assist departments with reaching participation goals.
 - Establish a "consulting" service to departments which request assistance in increasing program participation.
 - Monitor individual departmental participation and corrective action plans.

I will continue to work with DVBE program stakeholders to develop new ideas to promote accomplishment of the program goals.

DEPARTMENT OF VETERANS AFFAIRS

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July 15, 2004

The Honorable Senator Wesley Chesbro
California State Senate
P.O. Box 942848
Sacramento, CA 94248-0001

Dear Senator Chesbro:

RE: Improving Reimbursement

Several years ago, in Yountville, you held an Interim Hearing on "Cash and Reimbursement Management Practices". The problem of maximizing reimbursement and managing the receivables has not gone away but the Department is making progress. The Administrators at each Home know that I place a high value on both excellent service to our members/residents and excellent business practices.

The Home Administrators initiated most of these items listed below. The Charge Description Masters (CDM) project is one that I am pushing forward along with encouragement for more collaboration among the Homes and between the Homes and Headquarters. Here are some specifics:

1. Yountville: Through the efforts of the Reimbursements Barriers Committee the fiscal intermediary for Medicare was given the opportunity to conduct a North Bay physician training in Grant Hall, Yountville. In exchange for space, Yountville staff to include physicians, social services, utilization review, and coders was able to attend. A separate training was also provided to Yountville psychiatrists, psychologists, social workers, and coders that enabled the facility to better understand additional mental health reimbursement opportunities. Continuing education and training for billing staff continue to be emphasized at all Homes.
2. Yountville: A "Reimbursements Barriers Committee" meets bi-monthly at Yountville to explore new ways of improving the reimbursement system. In addition to problem solving assessment is conducted to ensure all allowable billing for all the services given to the members is accomplished. Examples include: Medical nutritional education, mental health services, and social services.
3. Yountville: Audit and tracking systems have been implemented to ensure charge slips are received for allowable billable services. All physician encounters are processed within forty-five days.
4. Yountville/Chula Vista: Utilization review expert was sent to Chula Vista to help them deal with Medicare Part A utilization issues. Sharing expertise between Homes will also be continually emphasized.
5. Yountville: Processes have been implemented to ensure utilization review staff at Yountville focus on a rapid return of Members to the Home as is feasibly possible following transfer to an off site acute hospital. This will reduce financial obligations to other health care entities.

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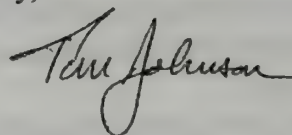
JUL 15 2004

Senator Chesbro
May 27, 2004
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6. Two companies, skilled in the review of CDM, have been interviewed regarding a project to look at our CDM for three purposes. These include: (1) Maximization of reimbursement (2) Compliance with regulations and (3) Simplification of the CDM. Unfortunately, in private industry we could interview the two companies, check references and hire them in a week. I have been informed that through the State contracting process this will take up to 3 months but we will pursue it.
7. Chula Vista: Medicare approval has been received for the provision of outpatient physical therapy services. These are now being billed. The approval for outpatient therapy is currently in place at Yountville and Barstow.
8. We have contracted with an individual under the "service order" provisions of state contracting law to come in twice a year to give our physicians training on how to record information for the correct billing of physician services. Billing audits are performed monthly for physician services and focused reviews have resulted in increased billings. Additional operational improvements using technology to engage physicians and other caregivers to provide quicker, more accurate and timely information are being implemented.
9. We are reviewing eligibility standards to ensure that as many residents as possible are insured, either privately or on a government program. In this light, we will need legislative support for such policy changes as requiring a spouse, who may be under 62, to have private insurance if admitted as a member or to require all members to apply for and maintain Part B Medicare and/or MediGap coverage during their residency at the Veterans' Home.
10. Lastly, over the next two years improvements in our cost accounting system are being pursued to enable Homes to have better information upon which to evaluate their reimbursement situation.

I have been listing my priorities for the new Deputy Secretary for Homes, which is a position now vacant, and one of my top 4 priorities is attention to the Homes reimbursement situation individually and collectively. My experience is that reimbursement is often neglected in favor of cost cutting when budgets get tight but I think it should be the first area of attention during a budget crisis. If I can be of further assistance, please let me know. Thank you for the opportunity to comment.

Sincerely,



Tom Johnson, FACHE
Secretary

**Goal Statement of
Charlene Zettel
Director
California Department of Consumer Affairs
Before the
State Senate Rules Committee
August 11, 2004**

The California Department of Consumer Affairs (DCA) was established with a fundamental mission of empowering and protecting the consumers of this state. In this era of limited resources yet unlimited potential for fraud, I believe it's critical to stay focused on that mission.

DCA oversees the licensing of 2.3 million professionals through 42 regulatory entities. Our staff of committed professionals helps consumers learn how to protect themselves from unscrupulous and unqualified individuals. When the inevitable marketplace problems arise, we help consumers reach resolution through our complaint mediation and enforcement activities. The Department also protects professionals from unfair competition by unlicensed practitioners through enforcement, education and outreach. Our enforcement efforts also focus on licensees who do not comply with California law. Our first goal is to bring them into compliance. When those efforts fail, we work with the Attorney General's Office to take disciplinary action.

As Director of this department, I am determined to continue this strong tradition of providing the people of this state with the resources necessary to protect their interests. Furthermore, I will work with regulated industries to enhance the integrity of businesses throughout the state. During my brief tenure, I have traveled throughout the state listening to our residents, hosting consumer roundtables, and seeking input from reputable industry groups. With the help of these constituencies as well as input from many legislative offices, I have developed the following goals:

- Launch a consumer phone survey in the Los Angeles and San Francisco regions to gauge consumers' needs. Conduct these surveys in several languages to reach diverse communities.

AUG 04 2004

- Implement a grassroots consumer outreach campaign to under-served populations such as, ethnic communities, senior citizens, and members of the military and their families through community based organizations and events.
- Conduct continuous enhancement of Department websites, to provide a greater resource for consumers.
- Educate consumers, local and state governments and businesses with information and best practices to comply with privacy laws and prevent identity theft.
- Produce radio and television public service announcements highlighting consumer advisories, scam alerts and recalls of potentially dangerous products.
- Distribute consumer tips and opinion pieces to weekly newspapers (English and foreign language publications).
- Reorganize staffing and resources to reduce the wait time for callers into the Consumer Information Center.
- Aggressively market the resources and services within the Bureau of Automotive Repair (BAR) providing information on consumer assistance, vehicle retirement, mediation and other available programs.
- Fully implement and showcase TB603, California's landmark mattress flammability standard, the toughest in the nation. Reinstate the testing of thermal insulation products to protect consumers and to insure compliance with fire safety standards.
- Partner with the Consumer Product Safety Commission (CPSC) to inform consumers of dangerous products and recalls.
- Strengthen the enforcement and inspection efforts of the DCA's boards and bureaus to promote greater consumer protection and increased marketplace fairness.

- DCA will produce an annual newsletter to be distributed electronically to our licensees, informing them of all new laws and regulations. In addition, on-going DCA communications will be available to industry for distribution in their publications and newsletters.
- Provide on-going staff training and development to insure that communication to regulated businesses and licensees is consistent and fair.
- Improve and expand online licensing applications (iLicensing), applicant tracking systems and renewal capabilities to all boards and bureaus. Also increase the availability of computer based testing to streamline the licensing process.
- Conduct regular internal audits of all DCA boards, bureaus and commissions insuring that exams, policies and procedures are updated, effective and compliant with current legislation and state regulations.
- Provide careful oversight of the examination process, ensuring that applicants are qualified and adhere to the professional standards of their industry.
- Whenever possible, consolidate DCA field offices to create one-stop shops and user friendly access for licensees and consumers.
- Establish the Bureau of Naturopathic Medicine, to protect consumers by licensing and regulating this emerging medical profession.
- Upon request, assist members of the Legislature with consumer outreach by participating in district Town Hall events to provide consumer information and educational materials.

STATE OF CALIFORNIA

ARNOLD SCHWARZENEGGER, Governor

OFFICE OF THE STATE PUBLIC DEFENDER

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STATEMENT OF GOALS

I was appointed State Public Defender by Governor Arnold Schwarzenegger on June 10, 2004, and I assumed my position on June 21, 2004.

In the seven weeks since my appointment, I have conducted an extensive evaluation of the state of the agency. This process has included an ongoing review of the agency's structure and organization, its internal policies and practices, and its information systems. During this review, I have taken the opportunity to meet with the staff, on an individual basis, in both the Sacramento and San Francisco offices, a process that proved to be extremely informative. From this review, and drawing upon my experience as an OSPD staff attorney from 1991 to 1999, I have already identified several areas in which reform is needed, and am in the process of implementing certain changes to make the Office of the State Public Defender (OSPD) more efficient and effective in meeting its mission. In addition, I am still in the process of examining other functions of the agency that may benefit from change.

It goes without saying that my principal goal as Director of OSPD is to ensure that the agency continues to provide excellent and cost-effective representation to its clients. The following highlights areas where I believe OSPD can, and will, do better:

Office Structure. OSPD presently has 45 attorneys handling an impressive 135 death penalty cases. Attorneys in the agency have their own case load, but are also assigned to teams of seven or eight lawyers. The teams, as presently constituted, were designed to ensure attorneys were adequately supervised and supported through a decentralized system of supervision: three Supervising Deputies, each with their own full case load, presently supervise the teams. However, during my meetings with the attorney and management staff, and from what I have observed in my short time as Director, most of the teams are minimally functional: they provide little legal support, no formal training and mentoring of less experienced attorneys, and inadequate case supervision.

It appears that this is due, in large measure, to the size of the working groups, and not due to the decentralized supervision approach. Accordingly, Assistant State Public Defender Donald Ayoob and I are working with staff to find appropriate ways to reorganize the team structure to increase the level of direct supervision, to facilitate the comprehensive training of new staff, and to better support each attorney regardless of level of experience. In addition, the agency presently has no Chief Attorney or Litigation Supervisor; that is, no attorney is presently designated to monitor attorney litigation plans and the progress of the agency's cases. I intend to fill this key position

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as soon as possible.

Training and Staff Development. Although OSPD has a long history of sending its lawyers to the very best professional conferences for training, the agency presently provides no formal in-house training for its attorneys. This is major flaw in the agency's present operations. In July 2004, I appointed an interim staff-development and training coordinator, who has already planned and conducted the first in a series of much-needed in-house training sessions. That coordinator also now represents OSPD in the planning of inter-agency trainings with the California Appellate Project and the Habeas Corpus Resource Center.

Information Systems. Most of OSPD's electronic hardware has long passed the State guidelines for computer life-cycles, and computer failures are becoming more frequent. I am presently working with OSPD's information systems director on a long-term plan to ensure the continuing health of the agency's information systems.

Surprisingly, I have found that OSPD's most important internal data systems (e.g., the agency's electronic brief bank) are virtually non-functional. Legal staff now rely largely on brief banks of other agencies, and there is presently no one assigned to ensure that the agency's wealth of legal materials are readily accessible—electronically or in hard copy—to staff. In addition, while OSPD permits attorneys to telecommute two days a week, most of the agency's information systems are currently unavailable to telecommuters. I am currently assessing OSPD's internal data systems, and plan on implementing a method that ensures OSPD-generated data is easily accessible to staff, and ultimately to the private capital defense bar.

Hiring and Staffing Goals. OSPD's most recent hiring practices have resulted in the recruitment of highly qualified Bay Area attorneys from the private capital defense bar, and highly qualified entry-level lawyers from around the nation. I intend to continue the practice of hiring the very best capital litigators, and the best and the brightest from our nation's law schools.

I believe it is important to develop aggressive strategies to recruit outside the Bay Area, particularly in Southern California. (Although most of the death penalty cases come from Southern California, all three agencies dealing with state capital case appointments—OSPD, the California Appellate Project, and the Habeas Corpus Resource Center—are located in Northern California.) To this end, my staff and I are currently discussing ways to effectively draw on the huge pool of talented lawyers in Southern California.

In addition, to ensure the future strength of the agency, it is important that OSPD do more to recruit the most qualified lawyers new to the practice of law. I have recently organized two hiring and recruitment committees, one in the San Francisco office and one in the Sacramento office. I am meeting with these committees to develop recruiting strategies aimed at *growing* the community of public defenders handling capital appeals.

In 1998, OSPD's staff increased by approximately 15 attorney positions, as a result of legislation that altered the mission of the agency. It appears this staffing increase contributed to the reduction in the backlog of death penalty appeals. Unfortunately, since only FY 2002-2003, OSPD has lost fully 20% of its legal staff (10.2 attorney positions, and 2 legal analyst positions), nearly returning the agency to its pre-1998 attorney staffing levels. During that same period, OSPD lost 40% of its non-attorney staff (17 non-legal staff). In the future, I intend to work with the Governor's office and the Legislature to explore ways OSPD might regain some of these recently lost positions.

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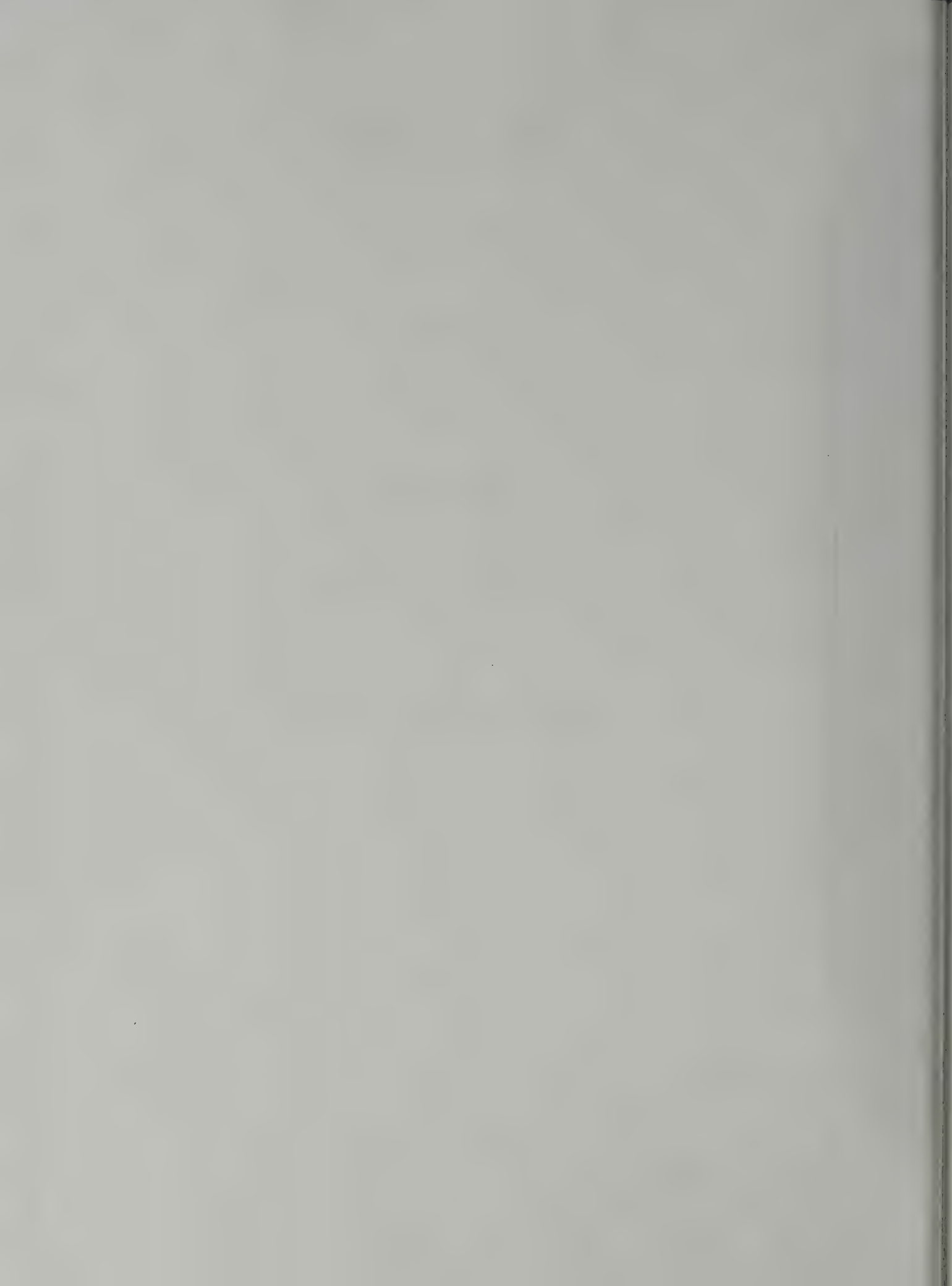
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SENATOR JOHN BURTON, Chair

SENATOR ROSS JOHNSON, Vice Chair

SENATOR JAMES BRULTE

SENATOR BETTY KARNETTE

SENATOR GLORIA ROMERO

STAFF PRESENT

GREG SCHMIDT, Executive Officer

PAT WEBB, Committee Secretary

NETTIE SABELHAUS, Consultant on Governor's Appointments

SUSIE SWATT, Consultant to SENATOR JOHNSON

CHRIS BURNS, Consultant to SENATOR BRULTE

TIM SHELLEY, Consultant to SENATOR KARNETTE

ROSA ROSALEZ, Consultant to SENATOR ROMERO

ALSO PRESENT

LUCETTA (LUCY) A. DUNN, Director
Department of Housing and Community Development

CHRISTINE MINNEHAN
Western Center on Law and Poverty

MAUREEN HIGGINS
California Housing Consortium

JULIE SNYDER
Housing California

THERESA PARKER
California Housing Finance Agency

TIM COYLE
California Building Industry Association

1 ROB WIENER
California Coalition for Rural Housing

2
3 WILLIAM L. GAUSEWITZ, Director
Office of Administrative Law

4
5 GENE LIVINGSTON, Former Director
Office of Administrative Law

6
7 JEANNE CAIN
California Chamber of Commerce

8
9 MIKE FALASCO
Wine Institute

10
11 DOUGLAS HELLER, President
Foundation for Taxpayers and Consumers Rights

12
13 JOHN C. MARSHALL, Warden
California Men's Colony, San Luis Obispo

14
15 DARLENE ESTES, Legislative Liaison
Association of Black Correctional Workers

16
17 DAVID IVEY, Chapter President
California Correctional Supervisors Organization

18
19 RICHARD TATUM, State President
California Correctional Supervisors Organization

20
21 WILLIAM J. SULLIVAN, Warden
California Correctional Institution, Tehachapi

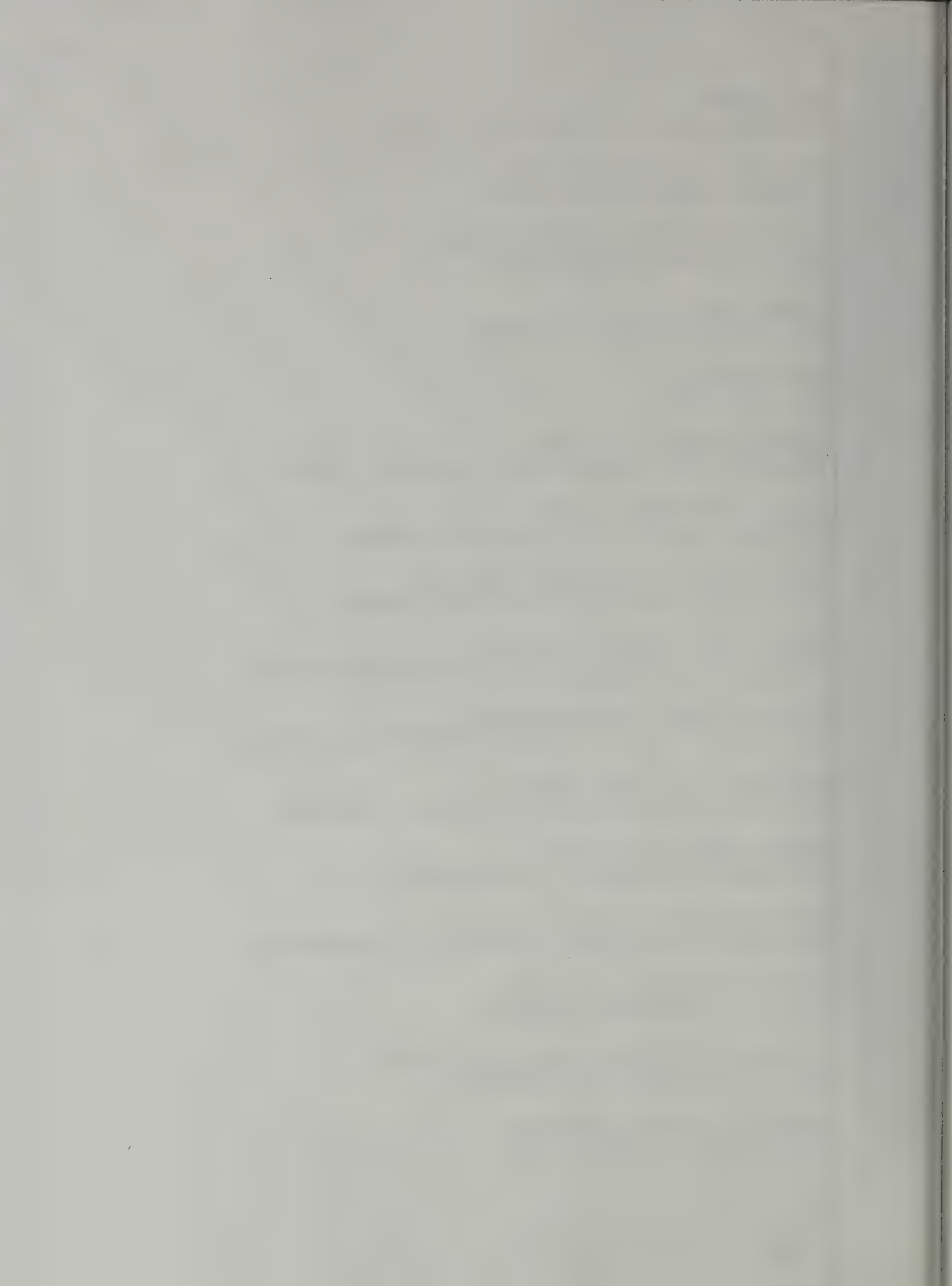
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California Department of Corrections

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Office of Emergency Services

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MICHAEL C. COLLINS, Executive Director
State Independent Living Council

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Health Services Department



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Kaiser Permanente

2
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County Health Executives Association

4 TERRI G. COWGER
5 California Children's Hospital Association
Hemophilia Council of California

6 MARTY GALLEGOS
7 California Healthcare Association

8 LUPE ALONZO-DIAZ
9 Latino Coalition for a Healthy California

10 BRUCE POMER
Health Officers Association of California

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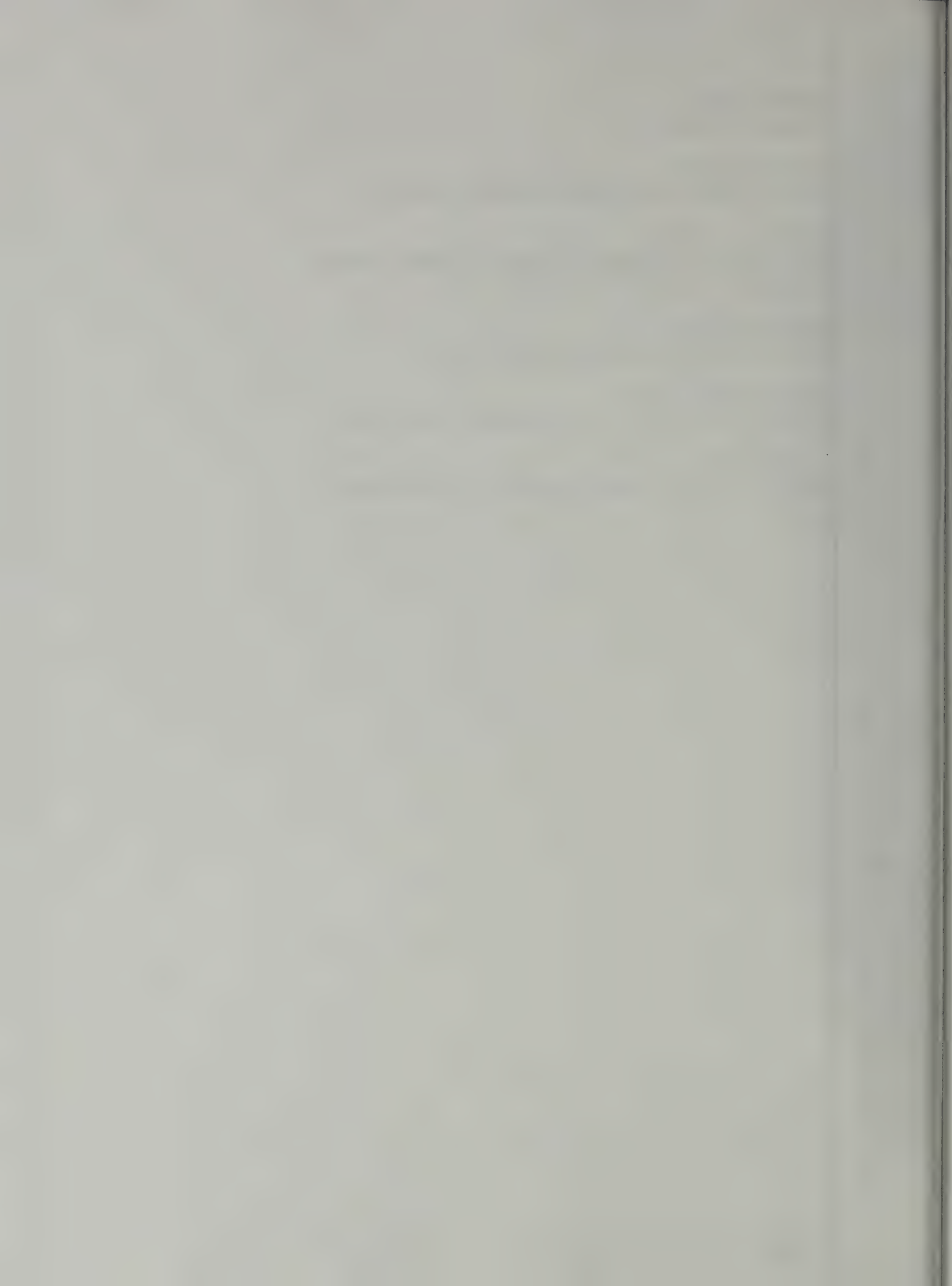
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3 by Appointees Required to Appear and:

4 JON S. FLEISHCHMAN, Member
5 Boating and Waterways Commission

6 SALLY M. FURAY, Member
7 California Student Aid Commission

8 LOUISE McCLAIN, Member
9 California Student Aid Commission

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P-R-O-C-E-E-D-I-N-G-S

--ooOoo--

CHAIRMAN BURTON: Lucy Dunn, Director of Housing.

MS. DUNN: Good afternoon, Mr. Chairman and Members of the Committee.

I would ask for your support for my confirmation as Director of Housing and Community Development.

Our state's housing shortage and lack of affordability are in every newspaper headline today. The fact is obvious.

I would like this position so that I could, with Housing and Community Development, make a difference in those numbers and work toward increasing the supply, choices, and affordability, as well as protect our quality of life for Californians.

There are specific objectives that I spelled out in my letter to Senator Burton. They include: getting out those Prop. 46 monies, continue to move them as quickly as possible; working on reforming the housing element and land supply elements; eliminating homelessness, it's a major issue, developing a plan and implementing that plan; trying to determine a primary funding source for long-term affordable housing projects; and work on a public affairs program that helps educate our public at the grassroots level, if possible, on the issues of housing and affordability, and frankly their opposition to housing projects.

I've been in the job for just over two months.

1 The challenge is huge for me. I have lots to learn and I
2 recognize that. The problems are real. The hurdles are steep,
3 but I am very motivated and energized to succeed. And I know
4 staff at HCD as well is that way.

5 So, I've also worked and met with many of the
6 housing stakeholders in my short term here, and I know that they
7 are focused on the same goals as well.

8 So, I would believe that we must succeed at this.
9 Safe, decent, affordable shelter is a right of every
10 Californian, and I am motivated to get that done.

11 I welcome an opportunity to respond to your
12 questions.

13 CHAIRMAN BURTON: Thank you.

14 One of the cities that I represent, the largest
15 city, San Francisco, we have a program of rent control. We have
16 a program that attempts to deal with condo conversion. The
17 Planning Commission is part of mitigation for large projects,
18 requires a certain amount of affordability in there.

19 Will these types of programs by local government
20 affect whether or not your department approves their local
21 housing elements or not?

22 MS. DUNN: They will not, sir. They are legal
23 tools in the toolbox.

24 CHAIRMAN BURTON: The same with eligibility for
25 state funds?

26 MS. DUNN: That is correct.

27 CHAIRMAN BURTON: You're committed to that?

28 MS. DUNN: Yes, sir.

1 CHAIRMAN BURTON: On the homeless issue, where
2 does that prioritize on the things you have to do? Then,
3 actually given the funding limitations, what kind of plans do
4 you have to do it deal with it?

5 MS. DUNN: This is a new issue for me, having --
6 my background is from the market side, so I am coming up to
7 speed very quickly on homelessness issues.

8 I have had the opportunity to review the 2002
9 Interagency Task Force on Homelessness and some of their
10 recommendations. Clearly prevention, early intervention will
11 save the state considerable money as opposed to dealing with the
12 issues after the fact. I'm learning that that's a critical
13 component.

14 I've already taken the opportunity to call the
15 Director of Corrections, the Director of Mental Health, the
16 Director of Veterans Affairs to see if we can pull ourselves
17 back together and integrate our services, certainly coordinate
18 our services, toward that program. Every one of the directors
19 expressed enthusiasm to pull together and start coordinating
20 those state and federal resources.

21 CHAIRMAN BURTON: That Interagency Task Force
22 actually met?

23 MS. DUNN: Not yet, sir.

24 CHAIRMAN BURTON: You said you reviewed a report.

25 MS. DUNN: Oh, I reviewed the report from 2002.

26 CHAIRMAN BURTON: And they actually did meet?

27 MS. DUNN: They have not yet met under my watch.

28 CHAIRMAN BURTON: I understand that.

1 MS. DUNN: They did meet before me, yes.

2 CHAIRMAN BURTON: They did?

3 MS. DUNN: Yes.

4 CHAIRMAN BURTON: And made recommendations?

5 MS. DUNN: I don't believe that they have made
6 recommendations from the --

7 CHAIRMAN BURTON: What did they do?

8 I don't think they did anything. I was kind of
9 surprised when you said they might have done something.

10 MS. DUNN: No, sir.

11 CHAIRMAN BURTON: We're talking about Davis, so
12 you can feel free to criticize.

13 [Laughter.]

14 CHAIRMAN BURTON: The administration, I mean, not
15 the Governor.

16 MS. DUNN: I was actually referring, I believe
17 that the Interagency Task Force made recommendations. I don't
18 think anything was implemented from those in 2002.

19 After that time, under my predecessor, there was
20 a brief meeting of the task force. Again, nothing came of
21 that.

22 I then am taking those notes from two months ago
23 and saying, "Let's get together and make something work."
24 They're in agreement that something needs to be done. So, I'm
25 committed to making that a priority.

26 CHAIRMAN BURTON: Now, I've talked briefly with
27 the Governor, but more to Pat Cleary and Maribell about the fact
28 that there needs to be, you know, if not a Homeless Czar, but

1 they really need somebody to pull this together. And their
2 opinion to me was that the best umbrella actually, which kind of
3 surprised me, would have been whatever is the name of Kim
4 Belshe's agency, Health and Human Services.

5 I thought it would be under Housing, but it's
6 because there's so many social services.

7 And as I heard you talk, you had Corrections, you
8 had VA, you had Mental Health, and the Agency head was left
9 off.

10 I would hope, and I'm going to talk to the
11 Governor when he gets back to see if he would more formalize
12 some form of task force, whether or not they need to actually
13 designate one person as the czar or the coordinator, because
14 there are myriad, at least in theory, programs to help the
15 homeless, lesser myriad funds to implement the programs.

16 Conceivably, what little money we have could get
17 wasted in duplication.

18 Just briefly again, what is your department going
19 to do, or what can you do to help the housing authorities and
20 Section 8 tenants that were hit by -- which I think was a fairly
21 unintelligent approach by the national administration -- on a
22 retroactive cut of Section 8 funds?

23 Just read the paper, especially in L.A. where
24 people were literally getting dumped out in the streets.

25 MS. DUNN: Absolutely, sir. It's incredibly
26 serious, and we are -- we are really following this closely.

27 I have spoken directly with Melissa Deckert of
28 the administration's Washington, D.C. Office. My staff as well

1 has met in Washington, D.C. with HUD, and Ms. Deckert is working
2 with Secretary -- I think it's Johnson -- on the issues.

3 As it stands now, the Governor's office has
4 stated to me that they are waiting until August 31st. They have
5 been pressuring HUD all along, but they're waiting until August
6 31st for them to make the awards based on these inflation
7 factors.

8 Candidly, we're not sure whether those awards are
9 going to be sufficient or not. The proof will be on August
10 31st, at which point the administration has committed that they
11 will do additional proactive work, including go to the White
12 House if they have to.

13 CHAIRMAN BURTON: It's in California, but are
14 they coordinating with the other governors or the other housing
15 departments in the other states? It's a very serious issue.

16 MS. DUNN: Yes, it is.

17 CHAIRMAN BURTON: A Section 8 tenant today will
18 be the person homeless in the street in about two months.

19 Just lastly, can you think of changes in either
20 the Emergency Housing Program or Prop. 46 that could help you
21 deal more with the homelessness problem?

22 MS. DUNN: On Prop. 46, I think it's the
23 coordination of issues that will work the best to make sure that
24 the funds are being used with the services involved.

25 There have been a number of suggestions made on
26 EHAP, including on emergency housing, including increasing the
27 amount of the award made for those shelters. We were finding
28 from our customers that enough money wasn't being allocated in

1 order to get these shelters in the ground. So, we have
2 increased those awards.

3 Senator, we're committed to making sure that
4 these funds are expedited for the building of these shelters,
5 and we are seeing progress in that regard.

6 CHAIRMAN BURTON: Also, I guess you should,
7 assuming that if the mental health initiative passes, which at
8 least it looks to date like it's got a chance, that I would
9 assume there's going to be a fair amount of funding in there,
10 and this probably gets back to Kim's operation, but for social
11 services and that for the homeless.

12 Thank you very much.

13 Senator Johnson.

14 SENATOR JOHNSON: I have no questions, but I just
15 I want to say that I've known Lucy Dunn for a number of years,
16 and I hold her in the highest possible regard. I think she will
17 do an outstanding job.

18 CHAIRMAN BURTON: Senator Romero.

19 SENATOR ROMERO: Thank you. I have some
20 questions here.

21 Just about a year ago, we confirmed Matt Franklin
22 as Director, of course. At that time of the confirmation
23 hearing, I had asked him why he had delayed the awarding of Home
24 Program Funds, something like \$71 million for rental, first-time
25 homebuyers assistance, particularly in rural parts of
26 California.

27 At that time, he told this Senate Rules Committee
28 that he was going to move the money out of the program. That

1 hasn't happened. If we look at the statistics today, California
2 ranks last. Of 50 states, we are number 50 among all states in
3 basically committing and distributing those funds to local
4 communities.

5 What are you going to do to improve this record?

6 MS. DUNN: A couple of changes now, Senator, that
7 I may share with you. These are very complex rules, and our job
8 has been, we've actually thought -- they're federal rules, as
9 you know. We've actually thought about trying to get the feds
10 to change the rules. That is so hard. So what we've tried
11 instead to focus on is, how can we help our customers comply
12 with those rules better and more successfully?

13 And so, in working with our customers, we've made
14 the following improvements. Again, increasing the awards on
15 these programs from 1 million to 3-1/2 million per project so
16 that our customers don't have to seek matching funds and look
17 for them before their projects can get in the ground. So, we've
18 alleviated as well the matching requirement that the federal
19 rules require.

20 SENATOR ROMERO: But you have to move the funds
21 out of the program. We can increase the amount, but if they're
22 just increased without being available, it's for naught.

23 MS. DUNN: Exactly right, and thus, when the
24 customers come and present projects to us, we actually approve
25 the projects and then allow for drawdowns. So, we're now seeing
26 projects getting built as a result.

27 And the proof in the pudding is that we have
28 literally more than doubled the distribution of these funds in a

1 one-year period of time. From comparing the 2003 dollars with
2 the 2004 dollars for the same period, we have moved \$21 million
3 to \$51 million. I'm committed to bettering that.

4 SENATOR ROMERO: When can you give us a report on
5 the movement of these funds? We have several Members who
6 represent -- it affects all of California, but particularly our
7 rural Members.

8 When can you give us a full report on the
9 movement, the disbursement of these monies into the districts,
10 the people that we represent? When can you give us that report?

11 MS. DUNN: I will be -- I will try to get it to
12 you by the end of this week if you like. We will -- I will make
13 that a priority for the rest of the week.

14 SENATOR ROMERO: Okay, I'd like to see that. You
15 probably should distribute it to all Members of the Committee.

16 MS. DUNN: I will, absolutely.

17 SENATOR ROMERO: Thank you.

18 CHAIRMAN BURTON: Senator Karnette.

19 SENATOR KARNETTE: I just wanted to say, one of
20 my good friends, Julie Borenstein, recommends you highly.

21 I have no questions.

22 MS. DUNN: Thank you, Senator.

23 CHAIRMAN BURTON: Witnesses in support.

24 Senator Brulte.

25 SENATOR BRULTE: No questions.

26 CHAIRMAN BURTON: Witnesses in support.

27 MS. MINNEHAN: Mr. Chair, Members of the
28 Committee, Christine Minnehan, Western Center on Law and

Poverty, here in support of Ms. Dunn for HCD Director.

She's been here for two months. We had clearly some differences of opinion on the way in which rent control, inclusionary housing, some of the other elements of the department are administered. We found her enormously open, willing, and responsive to the points of view that we represent as representatives of low and very low income persons looking for rental housing in this state.

We believe that under her directorship, we will see the Emergency Housing funds go out in a more creative and more responsive way. We believe that Prop. 46 funds are under expert direction.

And we believe that where we do have some issues, where we don't see eye-to-eye, that it's going to be possible for Western Center, California Rural Legal Assistance, and the other programs that we work on behalf of, to reach an accommodation that is best for lower income families in California to find housing.

On that basis, we are very supportive of her confirmation as the Director of the Department of Housing.

Thank you very much.

MS. HIGGINS: Senator Burton and Members, Maureen Higgins, representing the California Housing Consortium. This is a big tent group of housing providers. We have nonprofit and for-profit housing developers, lenders, investors, housing professionals, property managers, the whole gamut of people that are involved in providing housing for our citizens.

Our group supports the confirmation of Lucy Dunn

1 for Director of HCD, and we would echo Ms. Minnehan's comments
2 about how she came to the Department and jumped in with both
3 feet and hit the ground running. And she's been very open to
4 listening to all points of view.

5 This woman has a keen intellect, a substantive
6 knowledge of the issues, and I think a deep commitment to making
7 this department work, and especially to the low-income housing
8 side of the department.

9 So for those reasons, we strongly support her
10 confirmation.

11 MS. SNYDER: Julie Snyder with Housing
12 California.

13 On behalf of the state's nonprofit housing
14 developers and groups that run homeless shelters, I would echo
15 the comments of the speakers before me. We have found the
16 Director to date to be very willing to work with us on a variety
17 of issues, and we would urge you to confirm her.

18 MS. PARKER: Mr. Chairman, Terry Parker with the
19 California Housing Finance Agency.

20 I actually wanted to come and speak in support of
21 Lucy today. She's my sister state agency with the Housing
22 Finance Agency. I have spent a great deal of time with Lucy,
23 sort of indoctrinating her to state government, and to tell you
24 all that my assurances that we are working together to help
25 serve our customers as best we can. Lucy and I are both
26 committed to that, and I feel very strong that we will have a
27 good partnership going forward.

28 Thank you.

1 MR. COYLE: Mr. Chairman and Members of the
2 Committee, Tim Coyle, representing California Home Builders in
3 strong support of the nominee.

4 MR. WIENER: Mr. Chairman, Members of the
5 Committee, Rob Wiener with California Coalition for Rural
6 Housing. We're a coalition of community-based nonprofit
7 developers of affordable housing.

8 Initially we were concerned about this
9 appointment because we thought it might bring a more ideological
10 approach to the role of state government and HCD in the private
11 housing market. And especially, our members are major users and
12 beneficiaries of something called inclusionary housing, which
13 are programs adopted at the local level to require developers to
14 produce affordable housing as part of new development.

15 Our view is that that should be left to local
16 communities, to the local politics of those communities.

17 We are now convinced, after meeting with Lucy,
18 that she is -- we're very impressed with her intellect, her
19 curiosity, her open mindedness on the benefits of inclusionary
20 housing programs at the local level, and we would encourage you
21 to support this appointment. We think she's going to do a great
22 job.

23 Thank you.

24 CHAIRMAN BURTON: Other witnesses in support.

25 Any witnesses in opposition?

26 Moved by Senator Johnson. Call the roll.

27 SECRETARY WEBB: Senator Brulte.

28 SENATOR BRULTE: Aye.

1 SECRETARY WEBB: Brulte Aye. Senator Karnette.

2 SENATOR KARNETTE: Aye.

3 SECRETARY WEBB: Karnette Aye. Senator Romero.

4 SENATOR ROMERO: Aye.

5 SECRETARY WEBB: Romero Aye. Senator Johnson.

6 SENATOR JOHNSON: Aye.

7 SECRETARY WEBB: Johnson Aye. Senator Burton.

8 CHAIRMAN BURTON: Aye.

9 SECRETARY WEBB: Burton Aye. Five to zero.

10 CHAIRMAN BURTON: Congratulations.

11 MS. DUNN: Thank you.

12 CHAIRMAN BURTON: Do you have any family
13 here?

14 MS. DUNN: My son, Gerard is here, Gerard Fain.
15 He just came down from San Francisco today. Up from San
16 Francisco.

17 CHAIRMAN BURTON: Down the city, up the country.
18 William Gausewitz, Director, Office of
19 Administrative Law.

20 MR. GAUSEWITZ: Mr. Chairman, Members of the
21 Committee, I'm Bill Gausewitz. I have been appointed by the
22 Governor to be the Director of the Office of Administrative
23 Law.

24 I had previously submitted a statement of goals,
25 and rather than take the Committee's time to read all of them
26 back to you, I just want to emphasize the one that I listed
27 first, which is that the most important goal that I have is fair
28 administration of the Administrative Procedure Act.

1 There's a certain misunderstanding, that people
2 think that the Office of Administrative Law is intended to
3 review regulations and determine whether or not we think it's a
4 good idea.

5 The fact is, it's purely a legal review of
6 whether or not regulations proposed by the agencies have
7 complied with the legal requirements of the Administrative
8 Procedure Act.

9 I think I have both the -- I think I have the
10 technical skill necessary to do that, and I respectfully request
11 your support.

12 I'm available to answer any questions you may
13 have.

14 CHAIRMAN BURTON: Do you want to comment on the
15 concern expressed by some that your past work in the insurance
16 industry somehow could compromise your position in doing
17 whatever it is you're supposed to be doing?

18 MR. GAUSEWITZ: I fully understand that the
19 limitations of the Administrative Procedure Act restrict me to
20 review of whether or not regulations from any agency comply with
21 the Act.

22 If insurance regulations come to me that I
23 personally believe to be unwise but that comply with the Act,
24 then I will approve those regulations. I will take the same
25 approach to regulations related to insurance that I will take to
26 any other regulations.

27 CHAIRMAN BURTON: Explain to me again what it is
28 you do? So an agency promulgates a reg. And before it goes to

1 public hearing it goes up?

2 MR. GAUSEWITZ: No. It's submitted to the Office
3 only for inclusion in the Notice Register.

4 But then the agency does all of the development
5 of the regulations on their own, without our involvement. Once
6 they're done, once the agency has adopted the regulations and
7 whole process has been completed, presumably, according to the
8 Administrative Procedure Act, then they submit it to the OAL.

9 The OAL at that point is limited to reviewing the
10 file and determining whether or not the requirements of the
11 Administrative Procedure Act were met.

12 CHAIRMAN BURTON: Which would be, like, notice?

13 MR. GAUSEWITZ: There're both technical and --
14 there're technical procedures, such as the notice requirement,
15 the requirement that a rule making agency has responded
16 substantively to comments that have been received from the
17 public, and various content requirements for the documents that
18 have to be published to make up the file.

19 Then there are requirements that, all established
20 by the Administrative Procedure Act, that the regulations have
21 to be authorized by law. They have to refer to the statute that
22 the regulations implement. They have to be nonduplicative.
23 There's a necessity standard, a clarity standard, and a
24 consistency standard.

25 CHAIRMAN BURTON: So if, for argument's sake, if
26 there is an insurance regulation that you just philosophically
27 think is wrong, let's assume that you do say this regulation
28 didn't meet A, B or C, where does the appeal -- in other words,

1 you're not the Supreme Court. What would happen if you turned
2 reg down?

3 MR. GAUSEWITZ: The Administrative Procedure Act
4 specifically says that decisions by the Director, by the Office,
5 to reject regulations may be appealed to the Governor, and a
6 decision by the Governor could be appealed to the courts.

7 CHAIRMAN BURTON: There's a concern with some
8 about the so-called underground regulations that state agencies
9 do.

10 How can you deal with those? How can we stop
11 regulations that are made that, like all of a sudden there they
12 are, nobody knows, then somebody runs afoul of them?

13 I guess it's dependent on who's making the
14 underground reg as to whether it's good or bad.

15 MR. GAUSEWITZ: The APA provides for a process
16 called determinations. Determination allows any person to
17 appeal to the OAL to determine whether or not an action by
18 government is in fact a regulation that's required to be adopted
19 pursuant to the APA.

20 In recent years, the budget cuts at the OAL have
21 forced them to repeal the regulations authorizing that. The
22 request for determination process in the statute is optional.
23 It says that the Office may make a determination.

24 And they have, since January of 2003, when they
25 repealed the regulations, they haven't done that.

26 One of the goals that I listed would be to
27 return, restore that process, because I think it's a very
28 important process, but it would require additional resources

1 beyond what the Office has at the moment.

2 CHAIRMAN BURTON: Senator Johnson.

3 SENATOR JOHNSON: Thank you.

4 I have no questions for this appointee either,
5 but I do want to say that I have known and worked with Bill
6 Gausewitz very closely for over 20 years. I believe he's a
7 person of the utmost integrity. I believe that he will carry
8 out the duties, responsibilities of this position in a fair and
9 objective way.

10 I urge his support.

11 CHAIRMAN BURTON: Senator Romero.

12 SENATOR ROMERO: No questions.

13 CHAIRMAN BURTON: Senator Brulte.

14 SENATOR BRULTE: No questions.

15 CHAIRMAN BURTON: Senator Karnette.

16 SENATOR KARNETTE: I still do not quite
17 understand.

18 When a bill is passed, and say I'm the author of
19 the bill, or anyone, and we feel like the regulations do not
20 reflect the intent of the bill, is your office the one we would
21 appeal to? Or do you have anything to do with the intent?

22 MR. GAUSEWITZ: Intent, except when you get to
23 the issue of statutory interpretation, legislative intent isn't
24 really a concept that the Office deals with. It's not -- the
25 intent itself is not in the Administrative Procedure Act.

26 However, there's actually two things to comment
27 upon. One is that nothing prevents the Legislature, or any
28 Member of the Legislature, from participating in the rule making

1 process from the beginning.

2 One of things that I hope to do, given adequate
3 resources, would be to increase the Office's outreach to the
4 public and the Legislature about the process, and let people
5 know exactly what's going on. I would like, for example, to be
6 able to post all of the regulations that are currently pending
7 on the Office's website. So, you can participate at that
8 level.

9 Beyond that, once the rule making file is closed,
10 if you're still dissatisfied with how the agency has implemented
11 it, you can -- you can't appeal to us at that stage, because the
12 review by the Office is limited to the content of the file.

13 But if you've been involved before, your comments
14 about the scope -- the scope of regulations, or whether or not
15 they properly implement the law, will be included in the files,
16 along with comments. Those would be something that the Office
17 would review.

18 SENATOR KARNETTE: In the past, I have been
19 involved in hearings where several authors felt like the
20 regulations did not reflect the intent.

21 Who was conducting those hearings? What
22 department? What agency?

23 MR. GAUSEWITZ: OAL does not conduct hearings on
24 the regulations. Those hearings were almost certainly the rule
25 making hearings themselves. The Administrative Procedure Act
26 requires a rule making body to hold a hearing within 45 days
27 either on its own motion or at the request of any Member -- or
28 any person.

1 So, the hearing, in that case you're probably
2 dealing with the -- you're probably dealing with rule making
3 hearings conducted by the agency that's actually drafting the
4 regulations.

5 SENATOR KARNETTE: Because this becomes a real
6 problem when implementation does not reflect what the people who
7 introduced the bill meant. This is very serious.

8 MR. GAUSEWITZ: I couldn't agree more.

9 CHAIRMAN BURTON: One other.

10 When Governor Schwarzenegger was elected, he
11 issued the executive order about a six-month freeze on pending
12 regulations.

13 That was like a blanket freeze, including some
14 regulations that probably were of vital importance to be adopted
15 otherwise, some state policies even that he wanted or that
16 everybody wanted or needed didn't go. What would happen?

17 MR. GAUSEWITZ: There was a safety valve, I
18 believe, in that executive order with respect to the freeze.

19 That isn't --

20 CHAIRMAN BURTON: It's not a total blanket?

21 MR. GAUSEWITZ: No, it's not. It wasn't across
22 the board.

23 That was not one of the provisions of the
24 executive order that is specific to the Office of Administrative
25 Law, so I have to plead that I haven't studied it that hard.

26 CHAIRMAN BURTON: Do you have any family to
27 introduce?

28 MR. GAUSEWITZ: I don't, thank you.

1 CHAIRMAN BURTON: Witnesses in support, briefly.

2 MR. LIVINGSTON: Mr. Chairman, Members of the
3 Committee, my name is Gene Livingston.

4 I was appointed as the first Director of the
5 Office of Administrative of Law by Jerry Brown.

6 CHAIRMAN BURTON: And a fine job you did.

7 MR. LIVINGSTON: Thank you.

8 As a consequence of two-and-a-half years in that
9 job, I have a good understanding of what's required and what's
10 involved in it.

11 And I've known Bill Gausewitz for probably 15
12 years, worked with him. Bill will bring to that job the
13 excellent skills that that job needs.

14 I have every confidence that he will carry out
15 the functions in a very competent way, and with honor, and with
16 a lot of integrity.

17 So, without any reservation, I endorse his
18 confirmation as Director.

19 Thank you.

20 MS. CAIN: Jeanne Cain, California Chamber of
21 Commerce.

22 The Business community sees this position as a
23 critical role in ensuring that state entities do not exceed the
24 authority that you've given them through legislation on
25 implementing programs. That's good for business; it's good for
26 consumers.

27 And on a personal note, I've worked with Bill for
28 close to 20 years, and I can vouch for his integrity,

1 commitment, honesty, and hard working.

2 MR. FALASCO: Mr. Chair and Committee Members,
3 Mike Falasco, Wine Institute.

4 The Wine Institute likes to see government work
5 as it was intended, and OAL is the public's double check. We
6 feel that Mr. Gausewitz will revitalize the department, the
7 office, so that it again can be the public's watchdog. We need
8 it to be more active, and it has been.

9 We encourage your confirmation recommendation to
10 the Floor.

11 CHAIRMAN BURTON: Thank you.

12 Witnesses in opposition?

13 Mr. Heller.

14 MR. HELLER: Good afternoon, Mr. Chairman,
15 Members of the Committee. I'm Douglas Heller with the
16 Foundation for Taxpayer and Consumer Rights.

17 As we expressed in our letter to Members of this
18 Committee, our concern about Mr. Gausewitz's nomination is
19 fairly focused on his previous work as a lobbyist for the
20 insurance industry. And we understand, at least it appears to
21 be, general support for Mr. Gausewitz's confirmation.

22 And I have spoken with Bill about our concerns,
23 and do believe that his integrity is not in question. Certainly
24 his competence in the position is not in question either.

25 What concerns us is the ability of Mr. Gausewitz
26 to separate his many years of advocacy on behalf of the
27 insurance industry when insurance regulations come before him.
28 Our concern is rooted in a question that, Senator Karnette, you

1 had asked about, the question of when you see regulations that
2 don't necessarily follow what you thought the law was meant to
3 be.

4 Mr. Gausewitz assessed the role of the Office of
5 Administrative Law, and I think he sort of -- not intentionally,
6 but I think undervalued its power. I see it as sort of an
7 unsung hero in that the Office of Administrative Law is the
8 final hurdle for every regulation in this state.

9 And while the office does have very strict rules
10 to follow, because there is oftentimes so much interpretation
11 available in laws, there is quite a bit of gray area where, if
12 you have a bias going in, if the Office of Administrative Law
13 has a bias, it may -- it may interpret the gray area in a way
14 that doesn't really fit with what the goals of the Legislature
15 were.

16 Our concern with Mr. Gausewitz is that there is
17 that bias.

18 Again, in all other areas of law and matters of
19 regulation, we doubt that that exists, but with insurance, there
20 is just too much experience.

21 And I'd like to draw your attention to the short
22 tenure of Marz Garcia, a former Senator who was an appointed but
23 never confirmed Director of the Office of Administrative Law.
24 Mr. Garcia, when he was there, he spent a year denying the
25 implementation of regulations that would have provided for the
26 over one billion dollar rollback of rates of overpaid premiums
27 based on Proposition 103. And because he continued to deny the
28 implementation of those regulations under the auspices of his

1 authority at OAL, consumers in California suffered and did not
2 receive their refunds. Eventually on that issue, Mr. Garcia was
3 not confirmed by your predecessor in this Committee.

4 And I think it shows the -- it at least gives us
5 some indication of the power that is in the hands of that
6 department. And we want to be sure that we don't let the fox,
7 as it were, guard the hen house.

8 We have seen this in other appointees from the
9 previous administration. We are still fighting, and folks are
10 fighting every day at the Public Utilities Commission because
11 there was a former energy executive who is in the Commission
12 there, and that is a problem. And it doesn't mean that he may
13 not be capable of independently assessing other issues there,
14 but when it comes to energy matters, those are a frustration to
15 consumers.

16 And we think that with the Office of
17 Administrative Law, they will take on so much more than just the
18 issue of insurance, that we would feel comfortable, and believe
19 that consumers could be protected from the potential bias, if
20 Mr. Gausewitz were to agree that for those issues that he has
21 advocated on professionally as a lobbyist on behalf of the
22 insurance industry, if he were to recuse himself from those
23 issues, we would feel confident that the Office was, in fact,
24 and could live up to its important role.

25 The reality is that over the last five years,
26 there has not been a Director that is a confirmed Director, but
27 there are many capable and competent staff people who could
28 handle all the various issues. And we just believe that the

1 administration and Mr. Gausewitz himself should have faith in
2 those folks around him, that when it comes to those issues
3 where there is a conflict, or the appearance of a conflict, he
4 could recuse himself. And they will be assessed, the
5 regulations would be properly assessed, the job of state
6 government could be done, and there would never be a question.
7 We would never have to say, well goodness, was that decision
8 made because of his own political and policy inclinations. And
9 we wouldn't have to try to go up to the Governor, and wouldn't
10 have to potentially go to the courts. We would rather have that
11 issue off the table so the integrity of this very important if,
12 as I said, unsung hero agency was to get done.

13 So with that, we urge you, as the committee in
14 charge of this confirmation, to make that request of
15 Mr. Gausewitz. And if there is an agreement that he would
16 recuse himself from these very important issues, we would feel
17 that the Office of Administrative Law would be in good hands
18 and, at the same time, never -- it would not be colored by the
19 past experience as a lobbyist for the insurance industry.

20 SENATOR JOHNSON: I guess if you're asking
21 Members of the Committee to do that, my answer to you would be
22 that I wouldn't ask Mr. Gausewitz to meet a standard that I
23 myself am not prepared to meet and required to meet.

24 We are called upon during the course of a typical
25 legislative session to vote on hundreds and hundreds of matters
26 that we have background and experience and knowledge of.

27 Maybe it won't satisfy you, but knowing Bill
28 Gausewitz as I do, I will tell you that he will abide by every

1 conflict of interest law that exists, and will conduct himself
2 in this position with complete integrity.

3 I just don't believe that he, because of a past
4 position, will have a biased position.

5 SENATOR ROMERO: Actually, I do think the
6 question is interesting. I am curious, and I'd like to hear
7 from the nominee as to how you would respond to the concerns
8 that have been raised by the opposition.

9 MR. GAUSEWITZ: To begin with, of course, if I
10 find that I have a conflict of interest under the California
11 law, I would not participate in the decision on those issues.

12 On the general issue of will I recuse myself
13 from anything insurance-related, beyond the conflict of interest
14 laws, I'm not really sure what standard is being asked to
15 apply.

16 However, my success in this job is certainly not
17 going to be measured by the degree to which I protect the
18 interest of a prior employer. It's going to be measured by the
19 degree to which I fairly administer the Administrative Procedure
20 Act, and that would be my goal.

21 With respect to any decision that comes out from
22 insurance regulations, or any other regulations, if the
23 department were to -- if the Office were to reject the
24 regulations, I have to state the legal reasoning upon which
25 that's done. That's a matter of public record, subject to
26 evaluation, review, and appeal. And I'm certainly not going to
27 make an unjustified decision with respect to any department
28 simply because of any personal experience that I have with any

1 interest group.

2 SENATOR BRULTE: Do you see this position as an
3 administerial position or as a policy advocate?

4 MR. GAUSEWITZ: Well, first off, it is not a
5 policy making position. There is a specific provision of the
6 Administrative Procedure Act that says that the Office shall not
7 substitute its policy judgment for the judgment of the rule
8 making agencies.

9 There are legal judgment calls that are made in
10 application of the Administrative Procedure Act, but it's
11 essentially involving legal evaluation. It's a technical legal
12 position.

13 SENATOR BRULTE: Are those decisions subject to
14 appeal? Are all decisions subject to appeal?

15 MR. GAUSEWITZ: Decisions to deny regulations are
16 subject to appeal to the Governor.

17 CHAIRMAN BURTON: Can I ask, whoever it is passes
18 a reg, blah-blah-blah. It goes up to you. How long before you
19 put your stamp on it, up or down?

20 MR. GAUSEWITZ: From the time the regulation is
21 adopted and submitted to the Office of Administrative Law, the
22 Office has 30 working days to evaluate it. However, at that
23 point the record is closed. The Office bases its judgment
24 exclusively upon the contents of the rule making file submitted
25 by the agency.

26 CHAIRMAN BURTON: How long do you have to do
27 that?

28 MR. GAUSEWITZ: Thirty working days.

1 CHAIRMAN BURTON: After they close the file?

2 MR. GAUSEWITZ: Yes.

3 CHAIRMAN BURTON: How did Marz Garcia take a
4 year?

5 MR. GAUSEWITZ: From the time the rule making
6 file is opened, there's a period of up to one year before it has
7 to be submitted to OAL. But once it's submitted, you have -- at
8 the time it was 30 calendar days that he had. But once you
9 reject it, then the agency has an opportunity to make
10 corrections and resubmit it.

11 In the case of Marz Garcia, that happened three
12 times, as I recall, that he rejected the regulations.

13 CHAIRMAN BURTON: In theory you could stretch it
14 out?

15 MR. GAUSEWITZ: Yes.

16 MR. HELLER: Senator Burton.

17 CHAIRMAN BURTON: My only question is, what took
18 the Senate a year to dump him? Former colleague.

19 One thing. I think, clearly, on the statutory
20 conflict of interest, I mean, if you didn't abide by that, you'd
21 probably end up looking at the FBI.

22 So I think the concern is, and I've known
23 Mr. Gausewitz for quite sometime, that the basic concern isn't
24 whether or not you're going to make a ruling that could put
25 money in your pocket or stop money from going out, but whether
26 or not you're willing to call it fairly and squarely on
27 regulations coming from insurance.

28 Basically, he could recuse himself from

1 insurance, but knowing him as I know him, he's got kind of a
2 death philosophy on a lot of stuff, as I look at it, so I'd
3 really want him to recuse himself on everything but animal
4 husbandry, and I'm not so sure about that.

5 [Laughter.]

6 CHAIRMAN BURTON: But I do believe in the time
7 I've known him, he's always shot straight. He's always been
8 fair, and that's when actually his job was doing policy stuff.

9 I believe him when he says he will do this
10 right. For that reason, when it comes up I'll be prepared to
11 vote.

12 Are there other witnesses in opposition?

13 Senator Johnson moves the nomination.

14 SENATOR JOHNSON: Move the nomination.

15 SECRETARY WEBB: Senator Brulte.

16 SENATOR BRULTE: Aye.

17 SECRETARY WEBB: Brulte Aye. Senator Karnette.

18 SENATOR KARNETTE: Aye.

19 SECRETARY WEBB: Karnette Aye. Senator Romero.

20 SENATOR ROMERO: Aye.

21 SECRETARY WEBB: Romero Aye. Senator Johnson.

22 SENATOR JOHNSON: Aye.

23 SECRETARY WEBB: Johnson Aye. Senator Burton.

24 CHAIRMAN BURTON: Aye.

25 SECRETARY WEBB: Burton Aye. Five to zero.

26 CHAIRMAN BURTON: Congratulations.

27 MR. GAUSEWITZ: Thank you very much.

28 CHAIRMAN BURTON: John C. Marshall, Warden.

1 Without objection, Mr. Marshall's sister
2 requested to take photos. Permission is granted.

3 Go ahead.

4 MR. MARSHALL: My name is John Marshall. I'm
5 currently the Warden of the California Mens Colony.

6 I'd like to thank the Senate and the Department
7 for giving me the chance and opportunity to be here today.

8 You have my application, my resume, my response
9 to the questions you provided me.

10 I have 21-plus years with the Department. I
11 worked numerous prisons and all levels of custody, as well as
12 medical and mental health facilities. I have a BA Degree and a
13 California Teaching Credential.

14 I consider myself fortunate to be at the
15 California Mens Colony and have enjoyed the time I have been in
16 place as the Warden.

17 I am ready to answer any questions you might have
18 for me.

19 CHAIRMAN BURTON: Due to, I guess, budget cuts,
20 visiting has been reduced to two days a week.

21 How is that working, and how many like, because
22 of lines, waiting, people are reduced to five minutes? How are
23 you dealing with that issue, sir.

24 MR. MARSHALL: It seems we were fortunate. We
25 had four days of visiting prior to this. Now we have two, and I
26 would like to see a day or two brought back, to tell you the
27 truth.

28 But under the current situation, there's only

1 been two days that we've had to cut visits. One day was because
2 of plumbing problems; one day was because of Father's Day. We
3 had such a huge outpouring.

4 Other than that, everyone that comes to visit
5 gets their full visit. Those that we have had to turn away,
6 which has been very minimal, have received more than two
7 one-hour requirement, two visits. So, it hasn't been a problem.
8 The Local Visiting Committee I deal with are very receptive, and
9 we work out all the bugs in house.

10 CHAIRMAN BURTON: The Local Visiting Committee,
11 that's people on the outside?

12 MR. MARSHALL: Yes.

13 CHAIRMAN BURTON: What do you do with the inmates
14 that don't have work assignments or school assignments?

15 MR. MARSHALL: Okay, right now there's a lot of
16 things being implemented by the Department. One is the Bridging
17 Program that allows inmates that are in such a situation and are
18 eligible for day-for-day to get involved in education.

19 There's also the Correctional Learning Network,
20 which is just very new. And hopefully, about the next month at
21 my prison, we'll be able to tape this and show it through all
22 the tvs in the prison. It's a learning situation of where
23 inmates can enroll, get certificate and improve themselves. And
24 that's open to whole population.

25 In addition to that, we're also in touch with the
26 four local colleges. And we're in the preparation stage to
27 hopefully start offering some third watch college programs.

28 CHAIRMAN BURTON: What was the first thing you

1 said?

2 MR. MARSHALL: The Bridging Program?

3 CHAIRMAN BURTON: Yeah, yeah.

4 MR. MARSHALL: The Bridging Program, but that was
5 implemented now fairly in the last year to offer day-for-day for
6 inmates coming in at reception. And the way they earn that is,
7 they actually -- it's called cell front learning. It's kind of
8 like a tutoring situation. You have a teacher that has a
9 threshold of about 50-1 inmates. That teacher's responsible to
10 give these inmates packages, paperwork, do some tutoring.
11 She'll follow up and get the tests and the quizzes. She'll
12 grade them. She'll keep track of their accomplishments.

13 They also do an assessment early on to find out
14 what phase of this program they should be started in. When they
15 transfer from reception to their institution, that process stays
16 with them. So, they're eligible for day-for-day, from the day
17 they drive, which is going to help reduce our population. It
18 also gives them a viable program. Such things as anger
19 management and life skills are involved in the process.

20 CHAIRMAN BURTON: How does the new parole model
21 work as far as preparing the inmates for the outside?

22 MR. MARSHALL: Okay, we recently, in June we had
23 three parole agents assigned to our institution. They are now
24 on board and they have offices.

25 Initially, they were scheduled to come out in
26 March. We actually got them in June. Because of that, the
27 first inmates that are going to realize the benefits from the
28 program will be those inmates that are paroled on November 1st.

1 So, we won't have any stats until then.

2 What the people I have are doing right now is
3 working with my staff in order to do assessments of the inmates
4 paroling November 1st, and determining what their needs are on
5 the streets.

6 We have a very large mental health and medical
7 population at my prison, so those are also additional concerns.
8 We have to make sure that they get follow-up programs on the
9 streets.

10 Social workers are being hired to help out parole
11 agents. That's all in the process. And hopefully through this
12 process, when the inmates parole, they're going to have a
13 one-day orientation. DMV will be there. Social Security will
14 be there to give them Social Security cards and ID. They'll
15 find out how to get a driver's license, job applications. Then
16 they'll hopefully be resourced out with community resources
17 through the social worker and the parole agent, tailored to the
18 individual inmate, what are your needs; what can we help you
19 get. That's what the outlook is.

20 Again, we haven't realized that yet, but the
21 November 1st inmates are going to be the first ones to
22 experience that.

23 CHAIRMAN BURTON: Where is the prison?

24 MR. MARSHALL: It's about ten minutes from Morro
25 Bay. It's between Morro Bay and San Luis Obispo.

26 CHAIRMAN BURTON: Senator Johnson.

27 SENATOR JOHNSON: No questions.

28 CHAIRMAN BURTON: Senator Romero.

1 SENATOR ROMERO: I have a couple of questions.

2 We've been, of course, hearing quite a bit about
3 concerns over health care, the quality of the delivery of health
4 care services. We read a rather bruising report just a couple
5 of weeks ago regarding the credentialing, the ability, the
6 integrity, quite frankly, of physicians delivering health care
7 services to inmates in the entire system.

8 What is the status at the Mens Colony?

9 MR. MARSHALL: Okay. I can say I don't
10 experience too much of that, luckily. We're seen by about
11 everybody involved as being one of the best, if not the best,
12 institution on medical standards.

13 I forget the gentleman's name, but just in the
14 last couple of weeks we had a representative from the Plata case
15 come out and do a tour for two days. And on the exit interview
16 with me, he said that it's the best prison that he's seen. He's
17 kind of jealous of the highly qualified people we have working
18 there. He wants to look at possibly expanding our resources,
19 maybe through telecommunications, to help some of the other
20 prisons through, you know, giving advice over teleconferencing.

21 We've been able to recruit. We do a pretty job
22 of that. We've been able to retain. But it is a real big issue
23 statewide. We're kind of fortunate.

24 We're a 50-year-old facility. That lends some
25 challenges to itself. But overall, I think we're doing a pretty
26 good job.

27 SENATOR ROMERO: I congratulate you on that
28 assessment.

1 MR. MARSHALL: Thank you.

2 SENATOR ROMERO: With respect to the academic
3 programs, I was a little bit surprised to read -- and it's
4 across the board, but we're looking at your facility today --
5 only 11 percent of the eligible population participates in
6 academic programs. Only 6 percent of the eligible inmates
7 participate in vocational programs.

8 That is a tiny amount, 6 percent on one, 11
9 percent on the other. These are eligible inmates.

10 Why are those numbers so low? And if you were to
11 compare the Mens Colony to perhaps other facilities system-wide,
12 are they comparable? Are you better, are you worse? How do you
13 fare?

14 MR. MARSHALL: Well, well over 80 percent of our
15 population is occupied doing something: voc, education, prison
16 industry. So, most of my population, about 90 percent of it, is
17 getting day-for-day, they're 8-1 status.

18 When I took over the job back in November, the
19 following month when I walked into it, actually they took
20 programs down. We lost our voc shoe repair; we lost our voc dry
21 wall; electronics class; and there's another one that escapes
22 me. But I walked into it actually going in the other direction.

23 Since then we've brought back the dry wall. We
24 just recently, through PIA, brought back the shoe repair, and we
25 just were able to get some donated machinery which is going to
26 increase our ability to do knitting in industries, which means
27 making socks, basically. But again, all these are driving more
28 jobs for the inmates.

1 Again, getting into the college courses, the CLN,
2 the Learning Network, we're expanding that to occupy all the
3 inmates we can. One problem that we have and we're working on
4 is the lack of space. All the classrooms are full, the voc's
5 full. All of them have a waiting list. And when a person
6 graduates, it's filled the same day. So, we utilize our
7 resources to the extent that we can.

8 There's definitely room for improvement, and I
9 share your concern regarding that. I know those figures don't
10 look real well. I think we're doing everything we can at the
11 moment, and we've made a lot of progress in the last few
12 months. And obviously our -- my job's going to be to continue
13 that progress we've made and to keep going in the right
14 direction.

15 SENATOR ROMERO: My hope would be to see an
16 increase in that percentage, especially given that, again, your
17 reading level of your inmates at your facility is less than a
18 6th grade reading level.

19 MR. MARSHALL: Yes.

20 SENATOR ROMERO: I know there's been some
21 questions about the Distance Learning Network. Some of them,
22 for example, there's questions about cable television being paid
23 for through the Inmate Welfare Fund, not the state.

24 Can you just address that final question? Is it
25 appropriate to use the Inmate Welfare Fund to pay for that?

26 MR. MARSHALL: Actually, that's something that
27 through this confirmation process has been kind of brought to
28 light a little bit. I think that needed to be -- and I know

1 that the Department is taking a look at changing that, to find
2 out how we can utilize other resources.

3 Because right now we're limited to a dollar
4 figure, there's only so much we can provide. But with some more
5 funds, obviously, we could expand quite a bit.

6 SENATOR ROMERO: And you've articulated that to
7 the Department, that that's something that should be changed?

8 MR. MARSHALL: Yes. The Director acknowledges
9 it, and we're in the process of working on it. It's a good
10 point that we need to deal with.

11 SENATOR ROMERO: Thank you.

12 SENATOR JOHNSON: Senator Karnette.

13 SENATOR KARNETTE: As a warden, how do you see
14 your job as to the future of the inmates when they leave your
15 care?

16 I'm a teacher also, and I notice you've got a
17 degree in PE; right? Physical education.

18 MR. MARSHALL: Yes.

19 SENATOR KARNETTE: I just want to know, what your
20 philosophy is of what you see your job as a warden, and the
21 atmosphere of the place.

22 And education, I think Senator Romero has hit on
23 that. I concur with her observations. I'm concerned about
24 learning in institutions of all kinds.

25 MR. MARSHALL: I think the Department as a whole
26 recognizes that. We talk about safety. It isn't just for the
27 institution but also for the streets.

28 If we get inmates, and we send them out when

1 their term's up, and we know that there's an 80 percent chance
2 that person's coming back, something's missing. The return rate
3 is just choking us.

4 The biggest thing we have to do in the Department
5 of Corrections, to me, is to get our population down. Our
6 resources and budget's very limited, and because we have
7 165,000, give or take, right now, we can't provide everything we
8 need to. If we could get that count down to about 140,000 or
9 130,000, it would serve everybody a lot better, and we could
10 utilize our resources a lot better.

11 Education, family ties, visiting, voc, PIA, all
12 lend themselves to giving the inmates not workable, sellable
13 skills, but self-confidence, a work ethic, things they need to
14 be successful on the streets.

15 I think the new parole model that's going to pick
16 these people up at the door and kind of hand-lead them into the
17 streets, and help them get initiated into the streets, is going
18 to go a long way to doing that.

19 Again, we won't see the fruits of that for a few
20 months, but that's where we need to go.

21 And the Correctional Learning Network, the
22 Bridging Program, there's a big emphasis by the Department, by
23 the Director, to get more college classes going. This is all on
24 the right track.

25 SENATOR KARNETTE: It sounds like, though, if
26 they have a 6th grade reading level, they need a little bit
27 before college. They need something at the 7th and 8th grade
28 level.

1 MR. MARSHALL: And most of our education classes
2 are geared towards that. Most of them are general education
3 classes for reading and inmates trying to get a GED equivalent
4 type of a thing. And so, that's where most of our emphasis is,
5 is on that level.

6 But obviously, we need to expand it to everybody.
7 Recently I attended our graduation on our West side. It was 50
8 participants. About 25 were education, got their GEDs, about 15
9 were from a voc program. They got a viable certificate for
10 their vocation. And we had one inmate that had an AA Degree
11 through correspondence courses. All of them were very proud.
12 The families, I know, were very proud. This was really a neat
13 presentation.

14 And my speech to them was that they're the first
15 ones that are going to be monitored, and all those to come are
16 going to be monitored, because we're trying to do evidence-based
17 programing to where we can show what do we do in the prison that
18 relates to success on the streets. We have to identify that.

19 SENATOR KARNETTE: When you say monitor, do you
20 have an idea of how long? That's always a question.

21 MR. MARSHALL: I'd be guessing, but I'd say it'd
22 probably take, you know, because they got -- a lot of them are
23 going to go out on two or three-year probation, you know, I
24 don't know what the guidelines are going to be. Let's see how
25 many came back in a year, you know, two or three years. It
26 could be as much as three years to get a real good handle on it.
27 You know, six months figures won't be real good, but it'll be a
28 start.

1 And I think we're committed to making that start
2 and to get those statistics so we can say, you know, education
3 has an 80 percent impact, and voc has a 80 percent impact.

4 We know that it makes common sense if they do
5 improve things, but we don't have the stats to actually put
6 behind that, and we're going to go about getting that.

7 SENATOR KARNETTE: Following pretty far into the
8 future?

9 MR. MARSHALL: Yes, make our argument better,
10 yeah.

11 SENATOR KARNETTE: One last question. How many
12 inmates do you have in your prison? What's the number?

13 MR. MARSHALL: It's 6500. We're one of the
14 bigger ones.

15 SENATOR KARNETTE: So actually, how many guards
16 do you have?

17 MR. MARSHALL: Total staff, we have about 1650.
18 Officers, uniformed staff, I'd say around 750-800.

19 SENATOR KARNETTE: I know that's around-the-clock
20 supervision, of course.

21 MR. MARSHALL: Yes.

22 SENATOR KARNETTE: So during the day, about how
23 many inmates per guard, can you tell me that? I never asked
24 this question before.

25 MR. MARSHALL: The normal ratio for staffing is
26 6-1. Okay, now that'll go up if you're in a maximum security.
27 It fluctuates, but that's pretty much the norm.

28 I have pretty much an intermediate type level of

1 institution, so 6-1 is probably a good rule of thumb. I'd have
2 to do the math to figure it out.

3 SENATOR KARNETTE: When you speak to them, they
4 really all know you probably? They know who you are?

5 MR. MARSHALL: Oh, yes.

6 SENATOR KARNETTE: I'm just thinking about
7 atmosphere and attitude, and how people feel about leaving, and
8 how they feel.

9 I just think that's one of the most important
10 things we can do. You've got to get those prisoners out of
11 there and make them stay out.

12 MR. MARSHALL: I really think that at CMC -- and
13 I inherited some of this; I can't take credit for everything --
14 but at CMC, we give the inmate as good an opportunity as
15 anywhere in the state to be successful on parole. We have a lot
16 of programs, the biggest PIA in the state. We do a great job
17 with mental health programs.

18 And the inmates, actually at our prison they have
19 their own key to their cell, even instill some responsibility to
20 them, and they're out a lot. I mean, they're out going to
21 medical treatment, out of their cells by themselves. And so,
22 you know, we give them some credit.

23 And like I tell them all the time, as long as you
24 guys program, I'll do everything I can for you. Just don't get
25 in trouble; don't help me out --

26 SENATOR KARNETTE: He sounds like a coach;
27 doesn't he?

28 [Laughter.]

1 SENATOR JOHNSON: Witnesses in support. Don't be
2 bashful, but be brief.

3 MS. ESTES: Good afternoon, Mr. Chairman,
4 Committee. My name is Darlene Estes. I am the Legislative
5 Liaison for the Association of Black Correctional Workers.

6 CHAIRMAN BURTON: May I ask a question? Where is
7 Brother Mabry?

8 MS. ESTES: Brother Mabry wasn't able to be here
9 today, but he did have a message for you.

10 SENATOR JOHNSON: Perhaps you should give that to
11 the Senator privately.

12 [Laughter.]

13 MS. ESTES: He said that he's sorry he couldn't
14 be here, and that he was working on filling your shoes and your
15 seat.

16 [Laughter.]

17 CHAIRMAN BURTON: That in no way diminishes the
18 support of your organization for the warden.

19 MS. ESTES: I am here today on behalf of ABCW to
20 support the confirmation of John Marshall, Warden, California
21 Mens Colony, San Luis Obispo.

22 CHAIRMAN BURTON: Thank you.

23 MR. IVIE: My name is David Ivie. I'm the local
24 Chapter President of the California Correctional Supervisors
25 Organization at the California Mens Colony.

26 We're here to lend our support to Mr. Marshall.

27 CHAIRMAN BURTON: Thank you.

28 MR. TATUM: My name is Richard Tatum. I'm the

1 State President of the California Correctional Supervisors
2 Organization.

3 Our membership would like to request that you
4 provide your support for Mr. Marshall.

5 CHAIRMAN BURTON: Thank you.

6 Witnesses in opposition?

7 Call the roll.

8 Family, do you have family here? He has a
9 sister, we know.

10 MR. MARSHALL: Real quickly, my mother Eileen
11 Marshall, my sister Martha that was back there a second ago, my
12 brother Tom, my sisters Rosie, Susie, Carole, and most of all my
13 wife Pat, my three-year-old daughter who's sleeping, Sierra.
14 And my two college boys couldn't make it because they started
15 school yesterday. So, quite a bit of family.

16 CHAIRMAN BURTON: I'd say.

17 MR. MARSHALL: And they're not all here.

18 CHAIRMAN BURTON: Call the roll.

19 SECRETARY WEBB: Senator Karnette.

20 SENATOR KARNETTE: Aye.

21 SECRETARY WEBB: Karnette Aye. Senator Romero.

22 SENATOR ROMERO: Aye.

23 SECRETARY WEBB: Romero Aye. Senator Johnson.

24 SENATOR JOHNSON: Aye.

25 SECRETARY WEBB: Johnson Aye. Senator Burton.

26 CHAIRMAN BURTON: Aye.

27 SECRETARY WEBB: Burton Aye. Four to zero.

28 CHAIRMAN BURTON: Congratulations, Warden.

1 MR. MARSHALL: Thank you.

2 CHAIRMAN BURTON: Next, Warden William Sullivan.

3 MR. SULLIVAN: Good afternoon, Chairman and
4 Members of the Senate Rules Committee.

5 My name is Joe Sullivan. I am currently the
6 Warden of the California Correctional Institution.

7 I would like to take this time to thank you for
8 the opportunity appear before you today.

9 I would also like to thank the staff at CCI for
10 all of their efforts, without which none of this would be
11 possible.

12 I would also like to thank my wife Jane, my
13 daughter Kelly, my sons Bill and John, for their understanding
14 and support throughout my career.

15 CHAIRMAN BURTON: Are they here.

16 MR. SULLIVAN: Yes, they are.

17 CHAIRMAN BURTON: Could they stand?

18 MR. SULLIVAN: I began my career as a vocational
19 instructor in 1984 at the California Rehabilitation Center, and
20 progressed through the Education Department at various
21 institutions within the California Department of Corrections and
22 the California Youth Authority prior to assuming administrative
23 responsibilities within the Department.

24 I received a Bachelor's Degree and my teaching
25 credential in Industrial Arts from California State University
26 at Los Angeles in 1976, and a Master's Degree in Education
27 Administration also from Cal State L.A. in 1987.

28 The specifics of the assignments I have assumed

1 during my career are outlined in the application and resume that
2 has been provided to you.

3 At this time I'd be happy to answer any questions
4 you may have.

5 CHAIRMAN BURTON: Thank you, Warden.

6 There's been a high incidence of Hepatitis C
7 infection and an outbreak of chicken pox.

8 MR. SULLIVAN: Yes.

9 CHAIRMAN BURTON: Do you have any idea how, and
10 then how are you dealing with it?

11 MR. SULLIVAN: The chicken pox we found out
12 through symptoms of an inmate over in the reception center. And
13 what we did -- this was last week. I believe it was Tuesday.
14 At that the point we go out and do, or the medical staff goes
15 out and does a contact investigation to determine the potential
16 spread of the infection, or at least the potential infection
17 within the institution.

18 Once that's done, they do a baseline, and I
19 believe today they're going back and doing a second baseline to
20 see whether or not we can move inmates. But basically we've
21 ended up quarantining or at least stopping movement of the
22 inmates in the reception center, and also the gyms and the other
23 housing associated with the reception center at CCI.

24 CHAIRMAN BURTON: That chicken pox, that's the
25 easy one.

26 MR. SULLIVAN: Yeah, we haven't got small pox.

27 CHAIRMAN BURTON: That's the one that can be
28 fatal, right, I think?

1 MR. SULLIVAN: I think, too.

2 CHAIRMAN BURTON: What's been the impact to your
3 institution of the reduced visiting days?

4 MR. SULLIVAN: Actually at our institution, we
5 always had two-day visiting. Where it did impact us was, I had
6 a half-position that was cut that used to assist us in
7 transporting the visitors from the processing area up to the
8 visiting rooms themselves.

9 We had three. The third person would assist also
10 in processing of the visitors through the area to expedite that.
11 And then during influxes at the beginning of visiting and at the
12 end of visiting, that person could go out and take a bus to
13 bring visitors back to the process area.

14 So it's -- that's really been the only impact on
15 our institution.

16 CHAIRMAN BURTON: I understand the facts, but
17 what was the impact?

18 MR. SULLIVAN: The impact is that it's a little
19 slower process, and people wait a little longer primarily on the
20 back end of the visit, when they're coming out of the visiting
21 rooms and we're trying to bring people back.

22 CHAIRMAN BURTON: Trustees couldn't do something
23 like that? Do you have trustees anymore?

24 MR. SULLIVAN: No, we have porters, but they're
25 mainly making sure the visiting rooms are clean.

26 CHAIRMAN BURTON: That's just from old prison
27 movies, trustees?

28 MR. SULLIVAN: Maybe jails.

1 CHAIRMAN BURTON: How is the new parole model
2 working at your prison?

3 MR. SULLIVAN: As John mentioned, we have one
4 parole agent at our institution. He began also in June with his
5 assistant.

6 Again, we really won't be starting to realize the
7 benefits from that program until the paroles start in November.

8 What he's doing right now, as John mentioned, is
9 gathering information via a questionnaire that goes out to
10 determine what kind of risk assessment we're going to need, and
11 what kind of follow-up treatment and care that the inmate will
12 need upon parole.

13 And also what we'd like to do is take a look at
14 our programs within the institution, prior to the release, to
15 see if there's any fine tuning we can do there also to assist
16 the inmate.

17 CHAIRMAN BURTON: Just one question that's got
18 nothing to do with this.

19 Looking at your resume, you were at Preston?

20 MR. SULLIVAN: Yes, I was there for one year as a
21 Supervisor of Education.

22 CHAIRMAN BURTON: What kind of inmates are at
23 Preston?

24 MR. SULLIVAN: They were Youth Authority wards,
25 yes.

26 CHAIRMAN BURTON: That's what they used to
27 threaten us with.

28 Preston is where?

1 MR. SULLIVAN: Preston was over in Ione, right
2 next to Mule Creek.

3 CHAIRMAN BURTON: Deuel's at Stockton; right?

4 MR. SULLIVAN: Yes.

5 CHAIRMAN BURTON: Senator Johnson.

6 SENATOR JOHNSON: No questions.

7 CHAIRMAN BURTON: Senator Romero.

8 SENATOR ROMERO: I have some concerns that I want
9 to share with the Committee.

10 Last week an article appeared in the Los Angeles
11 Times describing what to me is somewhat of a schizophrenic
12 message that I believe the Department of Corrections is sending.
13 And to some extent, you're at the center of it. It involves, of
14 course, an individual, Mr. Jonathan Cobbs. To my knowledge, I
15 don't think I've ever met him. I can't comment on who he is.
16 But he's somebody who, back in 1997, had been recommended for
17 termination by the Department of Corrections.

18 I don't have all the details here. You can go
19 pull them out yourself, but the termination request was related
20 to his alleged involvement in what has now come to be called
21 Ninja Days at Corcoran. I won't go into details on that.

22 At that time in 1997, the then-warden at Corcoran
23 at the time recommended that Cobbs be fired for his role in the
24 raid.

25 Not surprisingly, of course, as is part of due
26 process, Cobbs did successfully appeal the termination
27 recommendation at the State Personnel Board, and ultimately the
28 action was reduced to something like a like a five percent pay

1 cut for six months.

2 MR. SULLIVAN: Correct.

3 SENATOR ROMERO: Members, I would just remind you
4 that in recent hearings we have learned that at the State
5 Personnel Board, something like 60 percent of cases brought
6 forward we find are being dismissed or severely reduced in terms
7 of the overall assessment of penalties. And this was part of
8 it.

9 It was interesting because the then-Attorney
10 General led a rather lengthy investigation into the Ninja Days
11 incident, and over 2500 hours were spent on this investigation.
12 At the end of the investigation, no criminal charges were
13 brought forward in the incident, not suprisingly, I would say,
14 because again, at that time, they could not find an officer who
15 would step forward to speak out about the incident, according to
16 the documents that I've seen.

17 Ultimately a couple of lawsuits were filed. At
18 the time it is my understanding that the Department of
19 Corrections, at least in one of the cases, refused to pay for
20 the legal defense of Officer Cobbs. In fact, when I looked at
21 the documents, they said something like, Cobbs' actions were,
22 quote, "committed with deliberate and wrongful intent and they
23 were motivated by actual fraud, corruption and/or malice."
24 Those are from the actual documents that I've reviewed.

25 To date, I understand the state has refused to
26 pay for the costs incurred by that defense for Mr. Cobbs, and
27 it's somewhere around \$20,000. Apparently CCPOA, seeking to
28 represent Mr. Cobbs, has sued the Department of Corrections,

1 trying to recoup those \$20,000.

2 Now, that's before your time. But this is where
3 you come into it, and this is why it's problematic to me.

4 We've been discussing officer-involved
5 misconduct. We've been talking about investigations. We've
6 been talking about at what point and when does something stick?
7 When is there some type of --

8 CHAIRMAN BURTON: Reckoning.

9 SENATOR ROMERO: Reckoning, thank you. A day of
10 reckoning.

11 And it surprised me that you as Warden, you make
12 a recommendation for promotion for Mr. Cobbs.

13 I would like to hear, given all that happened,
14 why did you recommend that Mr. Cobbs be promoted to essentially
15 be your right-hand man, your second-in-command.

16 MR. SULLIVAN: Senator, I appreciate your
17 position on this.

18 The process that I went through in making this
19 recommendation was the normal process for hiring Chief Deputy
20 Wardens in this case. Basically, they apply for and get placed
21 on a list. From that list, interested candidates will then come
22 down for or come for an interview.

23 During the interview, obviously, they'll go
24 through that process. We have the most recent performance
25 evaluation in front of us, any kind of information that
26 application -- or information that the candidate would have that
27 would indicate the person's experience and performance during
28 the past, at least in this case during the past year.

1 After -- in Mr. Cobbs' case, for instance -- and
2 then I would do a -- I'm sorry. I would do a contact with his
3 supervisor.

4 During the process, the interview process,
5 Mr. Cobbs presented himself extremely well. He performed very
6 well during the interview.

7 He also had an application that reflected that he
8 had a broad base of experience, which was something I was
9 looking for in an institution such as CCI that has multiple
10 missions.

11 In his performance evaluations, his performance
12 evaluations were outstanding. I made contact with his
13 supervisor. I can't think of the name at this point, but it
14 would have been the Chief Deputy, who also indicated that he was
15 a very good employee, and he would hire him if he had a chance.

16 SENATOR ROMERO: Did you ever look in his
17 personnel file?

18 MR. SULLIVAN: No. And Senator, that's where I
19 made a mistake. And that's an area where I could improve and
20 will, in fact, in the future look at those. Do a more thorough
21 review of any kind of complaints that an employee may have had,
22 whether it be EEO, whether it be disciplinary, or those types.
23 I will be doing that myself personally.

24 I have met with the Director also and basically
25 made a recommendation that a memo go out to all wardens in
26 hiring management positions, that we do do a more thorough
27 review into their background.

28 SENATOR ROMERO: I appreciate that now, but I

1 guess this is the part -- and I appreciate you raising this.

2 It surprised me when you indicated to me in our
3 conversation when I did ask you about this, that in a sense you
4 stated to me that essentially you had done the minimum. You
5 reviewed the last 12 months.

6 MR. SULLIVAN: Right.

7 SENATOR ROMERO: I asked you, could you have done
8 more, and you had indicated yes, I could have. But you didn't
9 do that.

10 MR. SULLIVAN: Yes.

11 SENATOR ROMERO: And that is bothersome to me
12 because, quite frankly, if I knew I was up for promotion, I'd be
13 on best behavior for 12 months.

14 To me, it's about decision making. We're serious
15 about officer misconduct. We're serious about the Code of
16 Silence. We're serious about the integrity of investigations
17 and that there should be a reckoning at the end of the day.

18 To me, that's not going to be the end. We're
19 going to have probably more -- knock on wood -- but we probably
20 will have more cases.

21 To me, it just comes down to, where is the teeth
22 in our wardens to say, "I want to get to the bottom of this."

23 The judge had spoken. The Special Master had
24 spoken. The OIG past and present have spoken. The Senate
25 hearings have spoken. Your transcript spoke. The personnel
26 file spoke.

27 And yet, I am just absolutely amazed. Even as
28 we're being sued to give back \$20,000, that the former warden

1 said it was malicious conduct, and nobody stepped forward to
2 testify, I just find it incredulous that when your opportunity
3 was there, you only opened what was in front of you and made a
4 few phone calls. But to me, the record is the record, and the
5 personnel file is what I would expect a warden to just simply
6 take the time to review.

7 I know that it's not just your action. And I've
8 discussed this with Director Woodford as well. And I appreciate
9 her frankness on this as well.

10 I know that there have been commitments to make
11 sure that we will go forward, and I have a great deal of trust
12 in the Director. And I see her stepping forward. I have a
13 great deal of trust in her, and the Secretary.

14 But I'm still going to go back and say, at the
15 end of the day, it starts with you. It starts with you to have
16 an involvement.

17 Otherwise, we are -- I mean as the warden, you
18 can take a look at --

19 CHAIRMAN BURTON: Should have done it, but it
20 just ought to be flat-blank policy.

21 SENATOR ROMERO: Yeah, and more than 12 months.

22 CHAIRMAN BURTON: I mean, whenever you apply for
23 any government job, have you ever been arrested? They don't
24 even ask if you've been convicted.

25 I would think, one, that it should be standard
26 operating procedure to look at a personnel file.

27 But two, I don't know, have you ever been subject
28 to disciplinary action, which at least this person was because

1 there's a five percent pay cut.

2 SENATOR ROMERO: Six months.

3 CHAIRMAN BURTON: It took us all that hassle to
4 do that in a MOU.

5 There just should be a policy that, one, somebody
6 should look at that, but also they should be answered. I would
7 think that in the days of computers, that people not only -- I
8 mean, I have now heard more about this case since Senator
9 Romero's been talking than I have in my life, but somebody
10 that's gone through that -- there almost ought to be, you punch
11 up the thing, not the Scarlet Letter but the computer, and
12 here's somebody that, again, if he or she reverts to whatever,
13 you're the one that's going to -- you know, it's self-protection
14 for you. Forget about the public.

15 SENATOR ROMERO: Maybe the Director can step up.
16 We've had a very good conversation, and perhaps we could hear
17 from her.

18 SENATOR KARNETTE: Could I ask a question about
19 personnel files, though?

20 I know that when you get into unions, grievances,
21 and I don't know what union -- was he represented by a union.

22 MR. SULLIVAN: No, he's unrepresented.

23 SENATOR KARNETTE: He was unrepresented, but the
24 CCPOA is suing CDC to pay?

25 MR. SULLIVAN: That was prior. That was when he
26 was a lieutenant, I believe.

27 SENATOR KARNETTE: Okay.

28 But personnel files, I know there are certain

1 problems with letting anybody and everybody see them. You could
2 have had access --

3 MR. SULLIVAN: Yes.

4 SENATOR KARNETTE: But I don't think you can put
5 them on a computer.

6 SENATOR ROMERO: A warden should be able to
7 review it.

8 MR. SULLIVAN: I do you have the authority to
9 review that. And I do. I should have done that. In
10 retrospect, that's an error I made, and it's an error I intend
11 to correct.

12 But on Mr. Cobbs' behalf, I've had him for two
13 months, and he's demonstrated nothing like what I read in that
14 news article that you read also. He's been -- he's been above
15 board. He's demonstrated integrity to me.

16 SENATOR ROMERO: It's not just what was news
17 article. This was the former warden who, at that time, would
18 have evaluated him.

19 And we don't get too many people recommended for
20 termination. And it's a court case.

21 So, with all due respect, it's not just what
22 happened to be in the Los Angeles Times.

23 MR. SULLIVAN: Right. I understand.

24 CHAIRMAN BURTON: Director.

25 MS. WOODFORD: Thank you very much.

26 If I could speak to the process, I think -- I
27 believe Mr. Sullivan fell victim to something that could have
28 happened to any of us because the process has been, the

1 interviews are conducted, and then at Headquarters, following
2 the recommendations, we do the background.

3 And we do have all adverse actions on computer.
4 And I was aware of the adverse action and took the steps that I
5 thought I needed to, to be sure that this individual had learned
6 from his mistake.

7 We did quite a bit of follow-up, including my
8 having a personal conversation with Mr. Cobbs. I felt very
9 confident that he had learned from his mistake. He showed a
10 great deal of insight into what occurred, and he had received
11 two promotions since that time. And everyone that we talked to
12 had the highest regard for him.

13 The process is what's in question here. And I'm
14 committed to going back, and we are going to redo how we go
15 forward with these appointments in the future.

16 It's very important that the person who will be
17 -- who that individual will be working for has the conversation
18 if there is any concerns in that person's background.

19 Mr. Sullivan has made some great recommendations
20 to me. My conversation with you, Senator Romero, has been very
21 helpful, and we will fix this process.

22 SENATOR ROMERO: And Director, that's really all
23 that I wanted at some point.

24 As I had indicated to you, Mr. Sullivan, at the
25 end of the day, whether you hired -- rather you promoted or not,
26 all I was looking for really was, I want an evaluation. I want
27 a justification.

28 I can understand, Director Woodford, you asked

1 the questions; you evaluated; you came away telling me why this
2 person should be promoted. That's what I would want to see in a
3 warden so that we don't get into a situation where we go through
4 all this work, and then it ends up for naught because we end up
5 rubberstamping.

6 Having said that, I do believe that the message
7 has been sent loud and clear. Mr. Chair, all I'm going to
8 indicate is that I will cast a symbolic No today. I'm not
9 asking you to reject the nomination.

10 The reckoning, I think, is here. Let's go
11 forward.

12 But I just think the symbolic No is more so
13 probably system-wide, that this issue has to be raised so that
14 when we get another warden at another point in time, especially
15 as we try to correct Corrections, that we don't have to go down
16 this road of just saying, "We didn't even ask."

17 CHAIRMAN BURTON: Senator Karnette.

18 SENATOR KARNETTE: I had something to ask,
19 something positive this time.

20 To end on a little higher note, the Senate staff
21 noted that you and your staff have made real strides in
22 improving health care. I'd like to know how you did that?

23 MR. SULLIVAN: Basically working hand-in-hand
24 with the health care manager.

25 In one of the questions, it indicated waiting
26 lists, and things of this nature, for health care services, pill
27 line, and basically sick call.

28 Unit Two had a --

1 SENATOR KARNETTE: What do you mean sick call?

2 MR. SULLIVAN: Sick call is where -- like going
3 into a clinic. For us out on the street, going into a clinic.
4 You have, maybe, an upper respiratory infection, or something of
5 that nature, and you want to get seen by a physician.

6 We had a 30-plus day backlog on Unit Two, which
7 is our largest unit; it's a Level II facility.

8 In working with -- bringing the issue, and
9 that's another area where this confirmation process has assisted
10 me, even having been there, that number coming out allowed me to
11 bring the issue to the health care manager, who then basically
12 did a rotation of his physicians, brought another nurse down to
13 that area. There are 1500 inmates on that one facility alone.

14 And basically, in a period of two weeks, he was
15 able to eliminate the backlog completely. He left it to one of
16 his physicians to come up with a process that would prevent this
17 from occurring in the future. And they have it now down to
18 where the inmate can come in and walk in prior to his work
19 assignment, be seen by a registered nurse. If the nurse
20 determines that he needs to be seen by a physician right then,
21 the doctor will see him then. If it's something that can wait,
22 he'll be scheduled for the very next day.

23 So, from a 31-day backlog plus, it's same day
24 service.

25 SENATOR KARNETTE: A person can die in 31 days.

26 MR. SULLIVAN: Yes. Well, emergency, we would
27 see him.

28 SENATOR KARNETTE: That kind of a plan, though,

1 perhaps we could recommend other -- I'm sure the Director will
2 do whatever she does.

3 MR. SULLIVAN: That's very close to the Plata
4 guidelines.

5 Basically, what we've done is gone to the Plata
6 guidelines, which is a process the Department is going through
7 right now. We're one of the rollout institutions. We're a
8 little bit ahead of schedule on that, but it was this that
9 pointed out the deficiency that we had that allowed us to put
10 this into place.

11 SENATOR KARNETTE: Thank you.

12 CHAIRMAN BURTON: Witnesses in support, briefly.

13 MS. ESTES: Good afternoon, Mr. Chairman,
14 Committee. I'm Darlene Estes with the Association of Black
15 Correctional Workers, Legislative Liaison.

16 I am here today on behalf of ABCW in support of
17 Mr. Sullivan.

18 I'd like to also say that I'm very partial to
19 this institution because that was the first institution I
20 started at in 1986.

21 CHAIRMAN BURTON: As an employee.

22 MS. ESTES: Yes.

23 [Laughter.]

24 CHAIRMAN BURTON: We like to clarify the record,
25 ma'am.

26 MR. NELSON: Good afternoon, ladies and
27 gentlemen. My name is William Nelson. I'm a Correctional
28 Lieutenant at CCI, and I'm also the Chapter President for

1 California Correctional Supervisors Organization.

2 Our organization is fully in support of Joe
3 Sullivan. He's been -- his highest priority is training his
4 supervisors and managers to deal with the ever-evolving
5 Department of Corrections.

6 And as a side note, I've personally known Joe
7 Sullivan for over 18 years, and he's one of the most ethical
8 persons I have ever met.

9 Thank you.

10 CHAIRMAN BURTON: Thank you, sir.

11 MR. TATUM: I'm Richard Tatum. I'm the State
12 President of the California Correctional Supervisors
13 Organization.

14 We are here today to talk about the confirmation
15 of Mr. Sullivan. Mr. Sullivan, we found in our dealings with
16 him and dealing with our employees, is a very highly -- the type
17 of person that has integrity and has honesty. And I think
18 that's the type of person that we want for wardens.

19 We come to these confirmations on regular basis,
20 and see a lot of folks that pass through here. And we don't
21 take these confirmations lightly.

22 So with that, we'd like to recommend that you
23 confirm Mr. Sullivan.

24 Thank you.

25 CHAIRMAN BURTON: Any witnesses in opposition?
26 Hearing none, call the roll.

27 SECRETARY WEBB: Senator Karnette.

28 SENATOR KARNETTE: Aye.

1 SECRETARY WEBB: Karnette Aye. Senator Romero.

2 SENATOR ROMERO: No.

3 SECRETARY WEBB: Romero No. Senator Johnson.

4 SENATOR JOHNSON: Aye.

5 SECRETARY WEBB: Johnson Aye. Senator Burton.

6 CHAIRMAN BURTON: Aye.

7 SECRETARY WEBB: Burton Aye. Three to one.

8 CHAIRMAN BURTON: Congratulations, Warden.

9 MR. SULLIVAN: Thank you.

10 CHAIRMAN BURTON: Henry Renteria.

11 Go ahead, sir.

12 MR. RENTERIA: Good afternoon, Chairman Burton,
13 Members of the Committee. Thank you for the opportunity to
14 address you regarding my appointment as Director of the
15 Governor's Office of Emergency Services.

16 As you are probably aware, I was the Director of
17 the City of Oakland's Office of Emergency Services for the past
18 18 years. Coming from that local government perspective, I'm
19 honored to be chosen to lead the state's emergency management
20 office.

21 At the local level, and particularly in Oakland,
22 I saw many of state's emergency management cornerstones take
23 shape from the ground up. I am thrilled at the opportunity to
24 take these to the next level.

25 My vision for the agency is centered on several
26 basic elements: support to local government; reinforcement of
27 the state's emergency management system; and protection of the
28 citizens of California.

1 With a new OES strategic plan as a foundation, I
2 intend to: reinforce all aspects of the Standardized Emergency
3 Management System, otherwise known as SEMS, and the OES regional
4 structure; reconvene the Emergency Council; further fortify and
5 streamline the criminal justice programs; improve coordination
6 with tribal governments in all aspects of emergency management;
7 and develop a robust program of continuous training and
8 exercises.

9 Again, I thank you for the opportunity for having
10 me here today, and I welcome any questions or comments from the
11 Committee.

12 CHAIRMAN BURTON: The Blue Ribbon Fire Commission
13 made several recommendations. One of them was for additional
14 fire engines. In fact, there is a measure proposed to, I think,
15 purchase an additional 30 fire engines out of the 150
16 recommended.

17 Have you got a position, a feeling?

18 MR. RENTERIA: Anything we can do to improve our
19 response is always something that we should support.

20 We are looking right now into exploring the cost
21 of what's associated with expanding our fire fleet. Anything we
22 can provide to local governments to help them respond,
23 obviously, is going to be a help to those local governments.

24 Bringing the experience I have from Oakland,
25 where we really depended on resources coming from other parts of
26 the county, other parts of the state to help us during the 1991
27 firestorm, it is a very big benefit.

28 So, I totally support that.

1 CHAIRMAN BURTON: Senator Johnson.

2 SENATOR JOHNSON: No questions, Mr. Chairman.

3 CHAIRMAN BURTON: Senator Romero.

4 SENATOR ROMERO: No questions.

5 CHAIRMAN BURTON: Senator Karnette.

6 SENATOR KARNETTE: When we met earlier, we
7 discussed federal funds that California's received from the rape
8 crisis centers and domestic violence shelters. You said those
9 funds are now being dispersed.

10 I was wondering if you could provide us with a
11 breakdown of how they've been distributed? I'd really
12 appreciate that.

13 MR. RENTERIA: I don't have those in front of me
14 now, Senator, but I'll be glad to provide them for your office.

15 As I mentioned earlier, I've done a lot of work
16 with our criminal justice people in order to identify where the
17 shortfalls were, where the stopages were.

18 I'm happy to report that due to legislation that
19 was passed, and due to discussions we've had with the federal
20 government, that the money has been flowing. There are a couple
21 of programs where we need some clarification before we can
22 actually cut checks, but those have to do with state -- I'm
23 sorry -- those have to do with district attorney offices and
24 they're not programs that deal directly with the public. I made
25 sure that the public funds are the ones that are being
26 distributed first.

27 I'll provide you with that.

28 SENATOR KARNETTE: Thank you very much.

1 CHAIRMAN BURTON: Do you have your family here?

2 MR. RENTERIA: Yes, I do. I have my wife Lee and
3 daughter Renee. They're in the back.

4 I also have members of my executive team here who
5 have also come here to support me. If they'd just raise their
6 hands and wave.

7 CHAIRMAN BURTON: Let's hope there's not an
8 emergency.

9 Witnesses in support, please.

10 Yes, sir.

11 MR. COLLINS: I figured there'd be a long line,
12 but I'm Mike Collins. I'm the Executive Director for the State
13 Independent Living Council. Thank you for giving me an
14 opportunity to testify in support of Henry.

15 He's been somebody who I've worked closely with
16 over the last five years over a lot of issues for people with
17 disabilities and other vulnerable populations. He's somebody
18 who is known throughout the state and outside the state for his
19 expertise. He's demonstrated it through the emergency they had
20 in Oakland, and also I've heard great recommendations from one
21 of our former fire marshalls who worked closely with him in the
22 command center for that fire and spoke very highly of him.

23 I've know emergency management experts around the
24 country through my affiliation and working nationally on issues
25 impacting people with disabilities and other vulnerable
26 populations. And I don't know anybody who's better qualified
27 for this job.

28 And I'd like to thank him personally for stepping

1 up and taking it, when he could probably retire pretty soon in
2 Oakland.

3 So, we're working together closely on continuing
4 initiatives. As a result of the Southern California fires last
5 year, we also had hearings and did a report, the State
6 Independent Living Council did. We made several
7 recommendations. He's taken those to heart. I've met with
8 emergency management personnel from around the state, including
9 many of his key staff, in five separate meetings already, and
10 we're going to continue to work together as long as you let him
11 have this position.

12 So, thanks for supporting him as well.

13 CHAIRMAN BURTON: Thank you.

14 This comes under idle curiosity. You've got a
15 lot of these so-called Homeland Security funds.

16 Do the locals make grant applications, or what?

17 MR. RENTERIA: Well, we don't control the
18 Homeland Security funds out of OES.

19 CHAIRMAN BURTON: You get 948 million federal
20 funds. It's not Homeland Security?

21 MR. RENTERIA: It's not Homeland Security.

22 CHAIRMAN BURTON: What is it?

23 MR. RENTERIA: Those are our disaster assistance
24 funds.

25 CHAIRMAN BURTON: They only come into play when
26 there's a disaster.

27 MR. RENTERIA: Correct. And also funds to help
28 communities prepare for future disasters or mitigate against

1 future disasters.

2 CHAIRMAN BURTON: How are those funds let out, by
3 grant application?

4 MR. RENTERIA: Yes, sir. That's true.

5 CHAIRMAN BURTON: Any kind of follow through on
6 those?

7 MR. RENTERIA: Yes, there is follow through for
8 that.

9 CHAIRMAN BURTON: Any witnesses in opposition?
10 Move the nomination.

11 SECRETARY WEBB: Senator Karnette.

12 SENATOR KARNETTE: Aye.

13 SECRETARY WEBB: Karnette Aye. Senator Romero.

14 SENATOR ROMERO: Aye.

15 SECRETARY WEBB: Romero Aye. Senator Johnson.

16 SENATOR JOHNSON: Aye.

17 SECRETARY WEBB: Johnson Aye. Senator Burton.

18 CHAIRMAN BURTON: Aye.

19 SECRETARY WEBB: Burton Aye. Four to zero.

20 CHAIRMAN BURTON: Congratulations.

21 MR. RENTERIA: Thank you, sir.

22 CHAIRMAN BURTON: Sandra Shewry, Director of
23 Health Services.

24 MS. SHEWRY: Good afternoon, Mr. Chairman and
25 Members of the Committee.

26 I have the honor of being before you today for
27 consideration of your approval of my nomination as Director of
28 the Department of Health Services.

1 My primary goal as Director is to advance the
2 Department's mission, which is to protect and promote the health
3 status of all Californians.

4 Health Services is a large and complex
5 organization with over 5700 employees. Our work touches the
6 lives of every Californian.

7 In addition, we have the honor of providing
8 health services to low-income and vulnerable Californians
9 through a variety of programs, the most notable being the
10 Medi-Cal program.

11 We administer programs and provide services that
12 expend \$36 billion dollars in state, federal, and special funds
13 each year.

14 I've spent the majority of my career as a public
15 servant in state government. For eleven years I worked with the
16 Managed Risk Medical Insurance Board, serving as the Executive
17 Director for the last six years.

18 I've worked at the cabinet level as an Assistant
19 Secretary of the then Health and Welfare Agency, and early in my
20 career, I served as a student assistant at the Department of
21 Health Services. Today when I meet student assistants in the
22 Department that I'm the Director of, I wonder which of them will
23 be honored to be the Director in 20 years.

24 Based on my 20-plus years of state service, I
25 believe that government can and does make a very positive
26 contribution in the lives of Californians. I know the state
27 workforce is comprised of talented and dedicated public
28 servants.

1 I've seen that government can develop programs on
2 time and on budget. I have a very positive and upbeat belief in
3 our ability to do good, working with advocates, the Legislature,
4 policy makers and interest groups.

5 In the few months I've been with Health Services,
6 I've developed four programmatic and policy goals that I'd like
7 to focus my work on.

8 The first and most important is being sure that
9 we're ready to respond to public health emergencies, be they
10 caused by nature or humans. This is, I think, a core service
11 the public expects of us, and I see that as my number one role,
12 to assure that we are ready to respond.

13 Second, I see the Department as having a key
14 leadership role in combatting the leading causes of death and
15 disability. What's coming up in that category now is obesity
16 and lack of activity. I think we can really make a positive
17 contribution if we garner resources across government, industry,
18 the schools, and work together to address what is now the second
19 leading cause of death in our nation.

20 CHAIRMAN BURTON: Which is?

21 MS. SHEWRY: Obesity and our lack of activity,
22 getting out and moving. We need to increase that and decrease
23 how much we're consuming.

24 My third goal is to be an active part and provide
25 leadership to the administration's efforts to reform the
26 Medi-Cal program. This program provides health care to 6.7
27 million Californians. It's a proud part of our heritage in this
28 state that we have such a well-managed program.

1 I see my job as really working to support the
2 long-term viability of that program. Medi-Cal spends so many of
3 state and government's resources that we have an obligation to
4 be sure we are maximizing value in the expenditure of those
5 funds. And I look forward to leading the administration's
6 efforts to do that.

7 Then my fourth goal is to improve the Department
8 of Health Services' role as a business partner. We do most of
9 our work through others, through contracts with local government
10 and other professional groups. And I think as a business
11 partner, we can advance the mission of health improvement if we
12 issue our regulations on time, complete our contracts on time,
13 monitor what is going on, and provide feedback.

14 California has a rich and robust ethnic, cultural
15 and geographic diversity. Health Services has a long history
16 of advancing the accessibility of its programs. I'm absolutely
17 committed to doing an even better job with that.

18 I see most of the challenges facing this large
19 and complex organization as opportunities, not challenges, and
20 there are many. I bring a commitment to positive, achievement-
21 oriented government.

22 I will be happy to speak with you about my goals
23 or other questions you have.

24 CHAIRMAN BURTON: Medi-Cal reform, and I've been
25 through it going back to Governor Reagan, but Medi-Cal reform is
26 always reduction in services.

27 What is the thought to reform Medi-Cal?

28 MS. SHEWRY: I've been in government about 20

1 years. When I first joined government, the big reform in
2 Medi-Cal was the selective provider contracting, the Medi-Cal
3 Czar. I know that you were involved in C-MAC back in the
4 earlier years.

5 That was a major reform in Medi-Cal. That was
6 not a cut in services. That was an improvement in services.

7 About ten years ago, we saw the rollout of
8 managed care in Medi-Cal, which I believe has improved access
9 for low-income people who are enrolled in the program, and it's
10 given us a way to measure the outcomes.

11 CHAIRMAN BURTON: So, you see it as a reform in
12 the program, and not necessarily like drastic increases in
13 co-pays and reduction in necessary services --

14 MS. SHEWRY: I came back --

15 CHAIRMAN BURTON: -- and you have to get
16 authorizations before you get emergency treatment after you have
17 a heart attack.

18 MS. SHEWRY: Absolutely. See, my job is to make
19 the program better, to demonstrate value to you and other policy
20 makers so that we have your enduring support.

21 CHAIRMAN BURTON: What's the status of the waiver
22 for selected provider contracting program under C-MAC?

23 MS. SHEWRY: The selected provider contracting
24 waiver is this program that started 20 years ago. Every two
25 years, we go to the federal government for a renewal.

26 CHAIRMAN BURTON: It makes sense. In other
27 words, they make you come back?

28 MS. SHEWRY: They make us come back. That

1 program captures federal and state funds for both Medi-Cal
2 members but also indigent people who are served by our public
3 hospitals.

4 We've used that waiver to bring in a lot of
5 federal funding to our safety net hospitals.

6 CHAIRMAN BURTON: The status, it's just where it
7 normally is?

8 MS. SHEWRY: It is where it normally is, but the
9 federal government's really changed their point of view on how
10 we're handling that and has approached 10 states previous to us
11 who have gone in for their renewals and asked them to change
12 their methodology.

13 So, we've been working closely with the hospital
14 industry to see, is there an alternative approach.

15 CHAIRMAN BURTON: Meaning what, change the
16 methodology?

17 MS. SHEWRY: To look at, instead of linking the
18 extra dollars, the dollars that we receive for the indigent
19 care, instead of linking those to an inpatient stay by a
20 Medi-Cal member, a fee-for-service inpatient stay, to de-link
21 them and have the money follow the indigent person. So, have
22 the money flow where the costs are.

23 CHAIRMAN BURTON: The last time I heard about
24 money following the patient was when Governor Reagan closed the
25 mental hospitals, and all the savings were supposed to follow
26 the people into the community. And we wonder why we've still
27 got a fair number of people living in the streets.

28 How would it be ensured that the money -- they're

1 going to give you a pot of money. Hospitals tell you we've got
2 so much uncompensated care, and you make that up to them, or
3 what?

4 MS. SHEWRY: No, it would not at all be a block
5 grant sort of approach.

6 Instead, it's looking -- and your questions are
7 exactly the ones we're asking. So, we're sitting down with the
8 hospitals. We're saying, if we used a different method for
9 drawing in federal funds, could you do at least as well as
10 you're doing today, or could you do better?

11 We would not proceed on this course unless we had
12 an understanding that it was going to benefit California. Our
13 intent --

14 CHAIRMAN BURTON: Is it our choice or the feds?

15 MS. SHEWRY: It's always the federal government's
16 choice in a waiver. And the program operates today under a
17 federal waiver.

18 CHAIRMAN BURTON: I understand that. What's the
19 difference whether we like it and the hospitals like it? If
20 the feds say you're going to do it this way, you're going to
21 cost us money.

22 MS. SHEWRY: Exactly why we're looking for the
23 alternative method that if we can -- alternative method that the
24 federal government prefers. If we, the federal government, and
25 the hospitals can agree on a new method, it would be a win. If
26 it would not --

27 CHAIRMAN BURTON: That'd be a win-win.

28 So, as I understand it, instead of lumping it in

1 with the per diem or the Medi-Cal people in the hospital,
2 they're going to give the state, a hospital, a city, a
3 sanitation district, somebody, money for indigent care based on
4 what?

5 MS. SHEWRY: The model's called a certified
6 public expenditure. Most of the safety net facilities today
7 have local funds that are in them for coverage of indigent care.

8 We're going to, instead of transferring those
9 funds to the state, reaching up and pulling down the federal
10 dollars, which is what we do today, we would instead leave the
11 money there, reach up and pull down the federal dollars
12 directly. It's just a different way of setting up the
13 accounts.

14 If it works. And I should say, we are still in
15 discussions. This is not a done deal. This is a talk to the
16 hospitals, let's see if this alternative method --

17 CHAIRMAN BURTON: Are the feds saying, talk and
18 see if it works? Or are we saying we want to talk and see if it
19 works? Because if they force this on us, we'll lose.

20 MS. SHEWRY: We're worried if we go back in for a
21 renewal of the current waiver they could stop us, as they have
22 other states. So, we're trying to find a proposal. We can lock
23 arms as a state with our industry and go back to the federal
24 government and say, "We've addressed your concerns. Here's an
25 alternative method."

26 CHAIRMAN BURTON: Well, the concern was, they
27 didn't like the way we were pulling money in and then doubling
28 it with Medi-Cal match?

1 MS. SHEWRY: What the -- it's called an
2 intergovernmental transfer. What they're concerned about is --

3 CHAIRMAN BURTON: They're concerned about that we
4 were really doing stuff and just getting more money --

5 MS. SHEWRY: The money wasn't staying in health
6 care, yes.

7 CHAIRMAN BURTON: Senator Johnson.

8 SENATOR JOHNSON: I didn't quite understand what
9 you said earlier, but words to the effect that you were proud of
10 the record and the efficient administration of Medi-Cal?

11 MS. SHEWRY: I am. May I elaborate on that,
12 Senator?

13 SENATOR JOHNSON: Yes, and then I'm going to --

14 CHAIRMAN BURTON: Unload.

15 [Laughter.]

16 MS. SHEWRY: Medi-Cal has the lowest per person
17 cost of any Medicaid program in the nation. It's incredibly
18 cost effective when you compare us. The costs in some of the
19 other large urban states like New York are double.

20 When you look at the efforts this state has put
21 on drug purchasing, it's very impressive. Other states are
22 trying to emulate us.

23 Our program runs at about one-and-a-half to two
24 percent administrative costs overall.

25 I'm not at all implying that there aren't
26 improvements to be made, that we don't need to look at ways to
27 maximize that value, but we start from a base where this state
28 has put a lot of effort into lowering what we pay per unit of

1 service in Medi-Cal. We have done a good job.

2 So, I am proud that we are not what looks like a
3 bloated program in terms of the cost per person.

4 SENATOR JOHNSON: It's been, as the Members of
5 this Committee know, it's been my policy for as long as I've
6 been on the Committee to grant the benefit of the doubt to any
7 appointee of any Governor.

8 But I just find that statement so outrageous that
9 it makes my blood boil, that you would sit there and say how
10 proud you are and not talk about the huge fraud that exists in
11 that program: Organized criminal gangs, moving from location to
12 location, preying on people.

13 And they're three times a thief. They're
14 stealing from the taxpayers; they're stealing from other
15 government programs; and most of all, they're stealing from
16 people who really need help.

17 Mr. Chairman, you said that I was going to
18 unload, and I'm struggling mightily to not do that.

19 But I find that absolutely outrageous, that your
20 first comment wouldn't be: There is so much we need to do to
21 improve this system, and job one is to deal with fraud.

22 MS. SHEWRY: I agree with you. There is fraud --

23 SENATOR JOHNSON: That's not what you just said.
24 You were telling me how proud you were of the system.

25 MS. SHEWRY: I do not at all intend to offend
26 you, Senator.

27 I can hold both thoughts, that this program has a
28 role in providing a service, and it is my job to make it a

1 better program.

2 SENATOR JOHNSON: Absolutely, you can.

3 But I am left doubting very seriously that that's
4 much of a priority when you sit there, and in answer to a direct
5 question, you tell me how proud you are of the system.

6 Again, I believe the person in your
7 responsibility, job one and the first words out of your mouth
8 ought to be: I am outraged by the level of fraud in this
9 system.

10 I'm not talking about fraud committed by
11 recipients. I'm talking about fraud committed by crooked,
12 organized criminal gangs of alleged providers.

13 And then the history of the program is to turn on
14 honest providers and make their life more miserable. And people
15 who ought to be going to jail behind this fraud are not.

16 I just find it outrageous that that wouldn't be
17 your first thought, not some add-on at the end: Well, yeah, I
18 do agree with that; we ought to be doing something about that.

19 What the hell are you doing?

20 MS. SHEWRY: It absolutely is a priority. My
21 second month on the job, I joined the Department in early April,
22 we did an extensive review of our fraud, anti-fraud program.

23 Next month we are coming out with what we call --

24 SENATOR JOHNSON: What did that review reveal?

25 MS. SHEWRY: That review revealed that we were
26 starting to make progress.

27 SENATOR JOHNSON: How many people have gone to
28 prison?

1 MS. SHEWRY: I'm not aware of that statistic.

2 SENATOR JOHNSON: Wouldn't that be a starting
3 point for such a review?

4 MS. SHEWRY: The starting point has been to put
5 systems in place so that fraud does not occur. We have
6 implemented new provider enrollment procedures to basically slow
7 down, because we agree with you, Senator.

8 Back in '99 and 2000, the briefings I've had --
9 I've had extensive briefings from my staff because I do care
10 about this; I do give it a priority -- they said you used to be
11 able to go and just see addresses where checks were being
12 mailed. There was no service being provided.

13 This Legislature and the administration, and the
14 prior administration, have put in place the base. We're working
15 off what we call a 7-point model fraud program.

16 I'm absolutely committed to those pieces of
17 that.

18 SENATOR JOHNSON: And what happens time and time
19 again, you know, people like me raise hell and say we've got to
20 do something about fraud, and so we put roadblocks in the way of
21 honest providers who are into it not to get rich, but honest
22 providers, and we make them jump through additional hoops.

23 But we don't do things about these mills, where
24 they'll have people going out, knocking on doors, cappers
25 knocking on doors, and telling people, "I'm from the Medi-Cal
26 office, and, you know, we've got our van parked out here. If
27 you've got anybody in the family that needs dental work," and
28 then take them. And then wind up having unlicensed dentists

1 performing extractions on ten-year-old girls, unlicensed
2 dentists.

3 And people shifting from one location to another,
4 to another, to another, charging \$250 to the taxpayers for a
5 pair of Dr. Scholl's inserts, orthotic inserts, I mean, that is
6 an outrage.

7 MS. SHEWRY: It is an outrage.

8 SENATOR JOHNSON: That you don't seem to share my
9 anger at that, I find disturbing.

10 And somebody, and obviously your position is the
11 best place to start, ought to be raising Almighty Hell about it.

12 CHAIRMAN BURTON: Senator Romero.

13 SENATOR ROMERO: I do appreciate the comments of
14 Senator Johnson.

15 I did review your Statement of Goals, and it is
16 disturbing not to find, at least from what I've seen in the
17 Statement of Goals, not to see an acknowledgement of the
18 widespread Medi-Cal fraud.

19 I did carry legislation when I first entered the
20 Assembly on Medi-Cal fraud. I represent a good part of East Los
21 Angeles, and it is a very serious problem that ultimately, I
22 think, does affect ordinary Californians who need to have, I
23 think, some greater protection.

24 So, I share the concern.

25 I will say, for somebody who's sometimes jumping
26 on wardens, it's actually kind of nice to hear some emotion from
27 another Member not related to Corrections on the Committee.

28 You may want to go back and just take a look at

1 your goals again.

2 Let me ask you, going back to Corrections,
3 though, does the Department of Health Services review, or do you
4 have any oversight at all of the medical staff, physicians, that
5 are employed in the Department of Corrections? Do you have any
6 oversight?

7 MS. SHEWRY: We don't have any formal regulatory
8 relationship.

9 We did this year provide quite a bit of informal
10 technical assistance as they were looking at their health care
11 delivery system, to talk with them about how they might approach
12 both quality improvement and getting a handle on cost.

13 SENATOR ROMERO: Do you think that's something
14 that perhaps there should be some oversight?

15 And the reason that I raise it, of course, is
16 because you probably may be aware that we did receive those
17 reports with respect to the questioning, quite frankly, of the
18 training, credentialing, the licensing of doctors employed
19 within the Department of Corrections.

20 In your goals, you say that you do want to ensure
21 the quality of health care for every Californian. That also
22 includes the incarcerated whom we incarcerate at state expense.
23 We pay for physicians who, you know, another Member of our
24 Legislature, Dr. Speier, has indicated these are the keystone
25 docs.

26 Do you think there's any -- Senator Speier; did I
27 say doctor? Freudian. Senator Speier. Well, let's make her a
28 doctor as well.

1 MS. SHEWRY: I think there's room for us to talk.
2 I think we should collaborate with CDC on understanding more
3 about their system and where we can be of help in things like
4 infectious disease control. We heard about the small pox
5 outbreak.

6 SENATOR ROMERO: Just the quality of the doctors
7 themselves, and if there are concerns as to whether or not
8 complaints have been lodged against them as to whether or not
9 they're still qualified to practice.

10 MS. SHEWRY: Services doesn't have jurisdiction
11 over health professionals, physicians. The Licensing Board has
12 the oversight on that.

13 SENATOR ROMERO: In terms of communicable
14 diseases, perhaps there should be a greater oversight. I would
15 encourage that.

16 MS. SHEWRY: Okay.

17 SENATOR ROMERO: We find, of course, many
18 psychologists employed in state health facilities. Apparently,
19 it seems that there's been quite a delay -- of course well
20 before your time; it seems like it's been almost 10 years -- a
21 delay in the writing of new regulations that stem from AB 947
22 regarding the role of psychologists.

23 Can you tell me, what is the status of that? I
24 think regulations are starting to be written, but when will we
25 see a completion of those?

26 MS. SHEWRY: The Supreme Court made clear that
27 hospital facilities can't restrict the practice, the scope of
28 practice, of licensed psychologists.

1 We had a regulation on the books that was not
2 perfectly in line with that. What the Department did in 1990
3 was issue what was an all facilities letter in 1993 that
4 basically notified facilities that that regulation was void
5 based on the Supreme Court case.

6 In 2000, the Office of Administrative of Law said
7 that's an underground reg, that letter. So, we've been working
8 on a reg package.

9 I was able to look into this this week, and it
10 looks like the Office of Administrative Law has a process
11 that's called Rule 100, where you can get an expedited
12 processing of a regulation, where we think we can make clear
13 that our regulation's inconsistent and bring it into line with
14 the Supreme Court decision. But that should be able to happen
15 within two or three weeks.

16 SENATOR ROMERO: There are at least five
17 psychologists serving in the Legislature, and I can't speak for
18 them, but I have heard from some of them.

19 I think this would be an issue of interest to us,
20 and perhaps we could have some kind of a meeting with you to
21 discuss the concerns that we, as psychologists, have on this
22 issue.

23 MS. SHEWRY: Okay, and we're entirely in
24 agreement on the policy. It's clear from the court decision.

25 SENATOR ROMERO: And then finally, with your
26 predecessor I often had, sometimes, heated conversations
27 regarding the role of the radiologic health branch, how
28 protective we can be for the disposal of low-level radioactive

1 waste in California.

2 It often seemed to me somewhat that the
3 Department itself is in a little bit of something that has to
4 cover not only the traditional public health, but then we
5 started going into, of course, the whole issue of low-level
6 radioactive waste.

7 I had often questioned, does all of this belong
8 within the Department of Health Services?

9 Have you had a chance to at least initially
10 review your Department's mission? Do you have any preliminary
11 thoughts as to whether or not this is a big tent under which
12 everything can happily fit? Do you have any recommendations for
13 some type of change?

14 MS. SHEWRY: As part of the California
15 Performance Review, we're looking at how do all the pieces of
16 government fit together, and that's a good side topic for that,
17 how should the environmental programs, you know, where should
18 they be housed? Should they be in a Department of Public
19 Health? Should they be in the Environmental Agency?

20 On the radiologic fee program, that is a
21 fee-based regulatory effort, and it looks to me like the fees
22 have not been altered in ten years, and that our effort --

23 SENATOR ROMERO: Nor had there been sufficient
24 teeth, I think as well, too, in kind of going after some issues.

25 MS. SHEWRY: And so, I'm looking at, you know,
26 all of our fee-based programs, that one in particular, because
27 we have expenditure authority that far exceeds the level of the
28 fees.

1 We recently had a review by the Nuclear
2 Regulatory Commission that said we were protecting the public
3 health, but we could improve. They've asked us to go back and
4 basically do a review of the entire program. We're doing that.

5 SENATOR ROMERO: All right. Thank you.

6 CHAIRMAN BURTON: Senator Karnette.

7 SENATOR KARNETTE: No questions.

8 CHAIRMAN BURTON: Witnesses in support.

9 Dennis.

10 MR. FLATT: Dennis Flatt, representing
11 Kaiser Permanente. I'll really be brief.

12 I have a letter into the Committee, so I won't
13 repeat that.

14 I just wanted to say that Sandra and I go back
15 about 18 years, and we wore different hats over those years. I
16 have always found her to be a tough but a very fair negotiator,
17 somebody you can work with.

18 We think it's a really great appointment and
19 support her confirmation.

20 Thank you.

21 MS. COWGER: Mr. Chair and Members, Terri
22 Cowger, representing the California Children's Hospital
23 Association and the Hemophilia Council of California.

24 We are here in strong support of Sandra Shewry's
25 confirmation. We find her extremely bright, and a capable
26 woman.

27 We've had already several opportunities to work
28 with her this session, and we think she's the right person for

1 the job. We encourage your support.

2 Thank you.

3 MR. GALLEGOS: Thank you, Mr. Chair and Members,
4 Martin Gallegos, California Healthcare Association.

5 I've had the good fortune of knowing and working
6 with Ms. Shewry as a Legislator, as a member of the Davis
7 administration when I was an ex-officio member to Mr. Mibb, and
8 now as a legislative advocate.

9 So, I'm here on behalf of CHA to ask your strong
10 support for her appointment.

11 Thank you.

12 MS. REIGEL: Judith Reigel, County Health
13 Executives Association, representing county health directors.

14 We're here to support Ms. Shewry's nomination.
15 We think she brings a broad knowledge of both public health and
16 mental care services, and demonstrated leadership with Mr. Mibb.

17 And we're particularly pleased with her
18 commitment to improve the working relationship and the business
19 side of the relationship between state and local health
20 departments.

21 MS. ALONZO-DIAZ: Mr. Chair and Members, Lupe
22 Alonzo-Diaz with the Latino Coalition for a Healthy California.

23 We're also in strong support of Ms. Shewry's
24 confirmation. She's been very responsive to the viewpoints of
25 consumers, particularly low-income consumers as well as Latinos.
26 And she's also been very accessible to us when it comes to the
27 viewpoints of public health, disease management and control, and
28 cultural linguistic competency issues.

1 MR. POMER: Bruce Pomer with the Health Officers
2 Association of California, in very strong support of this
3 appointment.

4 Sandra Shewry is very experienced, very capable,
5 hitting the ground running, and running one of the most
6 difficult departments in state health services.

7 We've been extremely pleased with our working
8 relationship with her so far, and we've also had a very good
9 past working relationship with her. That's why we're so
10 strongly in favor of this appointment.

11 CHAIRMAN BURTON: Witnesses in opposition?

12 Call the roll.

13 SECRETARY WEBB: Senator Karnette.

14 SENATOR KARNETTE: Aye.

15 SECRETARY WEBB: Karnette Aye. Senator Romero.

16 SENATOR ROMERO: Aye.

17 SECRETARY WEBB: Romero Aye. Senator Johnson.
18 Senator Burton.

19 CHAIRMAN BURTON: Aye.

20 SECRETARY WEBB: Burton Aye. Three to zero.

21 CHAIRMAN BURTON: Congratulations.

22
23 [Thereupon this portion of the
24 Senate Rules Committee hearing
25 was terminated at approximately
26 4:00 P.M.]

27 --ooOoo--
28

CERTIFICATE OF SHORTHAND REPORTER

I, EVELYN J. MIZAK, a Shorthand Reporter of the State of California, do hereby certify:

That I am a disinterested person herein; that the foregoing transcript of the Senate Rules Committee hearing was reported verbatim in shorthand by me, Evelyn J. Mizak, and thereafter transcribed into typewriting.

I further certify that I am not of counsel or attorney for any of the parties to said hearing, nor in any way interested in the outcome of said hearing.

IN WITNESS WHEREOF, I have hereunto set my hand this 23rd day of August, 2004.


EVELYN J. MIZAK
Shorthand Reporter

APPENDIX

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**DEPARTMENT OF HOUSING AND COMMUNITY DEVELOPMENT
OFFICE OF THE DIRECTOR**

1800 Third Street, Room 450
Sacramento, CA 95814
(916) 443-4773
Fax (916) 324-5107
www.hcd.ca.gov



August 12, 2004

The Honorable John L. Burton
President Pro Tempore
Chairman, Senate Rules Committee
California Legislature
State Capitol, Room 420
Sacramento, CA 95814-4900

Subject: Director, Housing and Community Development

Dear Senator Burton:

Thank you for your letter of August 6, 2004 and for giving me an opportunity to respond to questions of interest to the Senate Rules Committee. I look forward to meeting you and the Rules Committee members on Wednesday, August 18, 2004.

In answer to your questions, my overarching goal is to develop and implement programs and processes that will ensure housing opportunities for all Californians by increasing housing supply, choices and affordability as well as protect our quality of life. Specific objectives that I will seek to accomplish, in consultation with Department stakeholders, include:

- Continued strengthening of the efficient and effective administration and expenditure of Proposition 46 (Housing and Emergency Shelter Trust Fund Act of 2002) funding.
- Reform and improve the State's requirements for local governments to develop their mandated housing and land use elements to encourage and incentivize housing production for consumers at all income levels.
- Develop and implement a plan to seek the elimination of homelessness in California building upon the work of the Interagency Task Force on Homelessness of 2002.
- Work with the Legislature, housing stakeholders and the public to identify and secure a permanent funding source for the State's affordable housing programs.
- Develop and implement a strategy to engage and educate the public in support of housing for all.

AUG 13 2004

1. Do you plan to make homelessness a priority? If so, how do you propose to do so, given the funding limitations?

Yes. Safe shelter, and ultimately a home, is the cornerstone to stabilizing homeless individuals' and families' lives.

First, securing a permanent source of funding for affordable housing is essential.

Second, the Department of Housing and Community Development (HCD) must target current and new resources to fund the most effective programs that provide housing opportunities for those most at risk of homelessness, the chronically homeless, and those ready to transition out of homelessness. This means that HCD must continue to maximize the tools it now uses to combat homelessness by:

- Expediting the award of housing bond funds through the Multifamily Housing Program and its Supportive Housing component. To date, over 40% of projects funded serve special needs households or provide supportive services. These funds are essential to providing an opportunity for individuals to escape the cycle of homelessness by the development of stable, fiscally sound rental properties typically with on-site access to services and support.
- Ensuring the Federal Emergency Shelter Grant (FESG) Program and State-funded Emergency Housing Assistance Program allocation processes emphasize coordination with services and provide dollars to effective, experienced operators. In addition, the State allocation process factors in priorities and input from Local Designated Boards who are active in local homelessness efforts.

Third, we must use new tools:

We have begun funding projects and working with sponsors to access other federal funding sources to complement our dollars including:

- The federal Section 811 program to provide housing for extremely low-income disabled persons with federal rental subsidies.
- The federal Super-NOFA resources including the federal Supportive Housing component, the Shelter Plus Care component, and the Moderate Rehabilitation component. These federal resources complement Department efforts by providing rental subsidies and rehabilitation funds in properties that we are funding or have funded.

- HCD has awarded federal Community Development Block Grant (CDBG) funding to rural portions of the state to develop the requisite "Continuum of Care" plans and systems to access federal Super-NOFA grants.

Fourth, on the planning side, the Department will continue to focus on homeless issues in its review of local housing elements. HCD's review of local housing elements has resulted in communities removing barriers and adopting affirmative zoning to encourage and facilitate the development of these facilities and housing. I shall continue to support, and investigate strengthening, this role.

Finally, it is important to ensure State programs that impact or address homelessness are well-coordinated. I have begun to follow-up with the participants to the Interagency Task Force on Homelessness of 2002. I intend to continue building on those previous efforts and work cooperatively to achieve the goal of ending homelessness.

2. What changes in EHAP or the Proposition 46 construction programs could better address the issues of chronic homelessness?

The Department must continue to improve its delivery of dollars for successful, effective, and fiscally sound shelters, transitional housing facilities, and permanent rental housing projects that will meet the special needs of the homeless mentally ill and other chronically homeless populations.

In the Emergency Housing Assistance Program (EHAP), HCD increased its per-project award limit to \$1 million. This was in direct response to customer input that the previous maximum \$500,000 simply wasn't enough to facilitate the development of a shelter or transitional facility. That change increased successful applications from \$24.5 million in the first round of funding to \$38.7 million last year. These more recent awards are much more fiscally sound and likely to proceed to fruition. In addition, HCD has funded more projects combining emergency and transitional housing into larger multi-service projects. These projects include comprehensive service centers that more effectively address chronic homelessness because they cover the full spectrum of needs and are large enough to meet the constantly changing needs of the clients.

Last summer the Department modified its Supportive Housing Program from an annual competitive process with a specific application due date to allow sponsors to submit applications when they are ready for their project to move forward. This change allows for increased technical assistance to applicants to ensure an application meets program requirements. As a result, the program awarded \$50 million to 30 projects

within a twelve month period, compared to awards of \$16.7 million for 10 projects over the first six month period. The funded projects will serve an array of special needs populations with access to supportive services designed to sustain their independent living status.

Frequent communication with our stakeholders also helps HCD consider other changes which will aid in the production of this housing.

3. What is your view of establishing a State Office of Homelessness to coordinate homeless resources that are scattered across various agencies and departments?

I wholeheartedly endorse the concept of better coordination across State and federal agencies. If, to meet this goal, a new agency is formed to add another layer of review and decision-making, I probably would not endorse it.

I will begin by reconvening the participants who came together to work on the previous homelessness task force. I also will seek a commitment by the various Department Directors and Agency Secretaries to establish structure and regularity to the communication and coordination efforts. This could mean regular meetings or communications among key state and federal funders, as well as with relevant service providers and other resources. The previous interagency task force recommended an ongoing "Council on Homelessness." I believe this recommendation has merit and am committed to pursuing it.

Section 8 and mid-year retroactive HUD cuts to voucher program

1. Did your department prepare a letter on this issue? Was it sent? If not, why?

HCD has communicated directly and frequently with the Governor's office, his Washington, D.C. office and the federal Department of Housing and Urban Development (HUD) as well as individual public housing authorities on this serious issue. HCD staff has met with Deputy Assistant Secretary of HUD, Bill Russell. Melissa Decker, Deputy Director of External Affairs of the Governor's office in Washington, D.C., has been meeting weekly with a coalition of public housing authorities and local governments regarding Section 8 issues. Ms. Decker has been a strong advocate for California with both Secretary Jackson and Mr. Russell. HCD has not sent a letter at this time. Based on discussions with the Governor's office, a proactive approach to addressing this issue is preferred by them over a letter. But a

letter may be forthcoming on or after August 31, 2004.

Ms. Decker reports that the administration does not support attempts to make retroactive changes in the middle of a calendar year. However, the administration is working with HUD to identify continued funding for this program. Since the announcement in April of the retroactive cuts, HUD has been giving more money to public housing authorities and providing reserve funding. The administration is monitoring HUD's activities and has encouraged the public housing authorities to submit funding requests and appeals for the annual adjustment factor.

On August 31, 2004, HUD is scheduled to announce awards for their annual adjustment factor appeal. The administration will determine the net benefit to California and at that time either prepare a formal letter or take other proactive and appropriate action to protect voucher recipients.

- 2. Other states are weighing in against HUD's proposal to shift the Section 8 program from a unit-based to dollar-based system, which will include eliminating key federal rules for serving the poorest. What position have you/will you advise the Governor's office to take on this proposal that will eventually result in an estimated loss of \$800 million per year in rent subsidies in California?**

We have strongly urged HUD to reconsider the federal budget reductions and policy modifications to the Section 8 program. In July of this year, according to Ms. Decker of the Governor's office in Washington, D.C., the House Committee on Appropriations marked up the fiscal year 2005 appropriations bill to \$761 million above this year's level for Section 8; they did not change the way the Section 8 program operates. There have been no hearings scheduled and the administration has contacted the Chairman of the Housing Subcommittee. I am advised by Ms. Decker that this administration is closely following this matter.

The Section 8 program for 2005 is financially sound. We will continue to insist that nothing undercut this important program. It appears that Congress is not taking up HUD's proposal and there is no planned action by the legislative branch.

We will work with the California Congressional delegation if we learn of any changes and will seek your assistance in this regard as well.

3. In both cases, what, if anything, do you propose to do for the families losing their vouchers?

Given the high cost of housing in California, projected population growth and the magnitude of the reduction, neither California cities and counties nor the State currently have resources or programs that could readily fill the gap. If we are successful in identifying an ongoing source of funding for affordable housing in the future, it is unlikely that this funding stream would be sufficient to both replace the rental assistance program and also fund a significant increase in housing supply affordable to lower income families. The Department will continue working with HUD and the Governor's Office to seek additional funds for public housing authorities that are unable to fund their vouchers.

Housing Elements

Local governments have adopted a variety of ordinances in response to their high housing costs, such as inclusionary zoning, rent stabilization and condo conversion ordinances. Without these measures, low-income persons spend a disproportionate percentage of their income on housing, forego other necessities, crowd into substandard units, and commute long distances to work or, in the worst case, become homeless. Local governments have typically supported the long-standing recognition that compliance with these types of ordinances is a cost of doing business in an extremely lucrative sector of the state's economy—housing. The Business, Transportation and Housing Agency Secretary has met with stakeholders during the past few months to discuss major changes in state land use, housing element and environmental law. The Secretary has indicated her concern with local housing policies that require builders to provide "affordable units without subsidy". When previous administrations have also held this view, HCD has utilized its regulatory controls to discourage such local policies.

1. Will HCD approval of a locality's housing element (or whatever replaces it) or eligibility for state housing funds be impacted by the presence of absence of any of these types of ordinances?

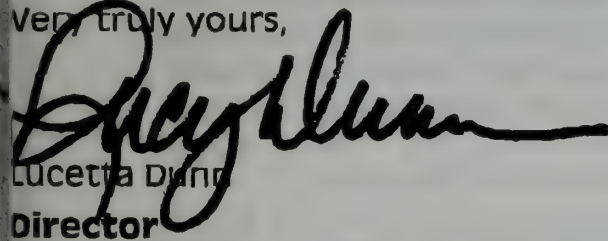
HCD will not disapprove a jurisdiction's housing element because of the inclusion of any of these ordinances. Housing element law ensures that local governments plan for existing and future housing needs for all income levels but does not dictate precisely how needed growth is to be accommodated or the type of housing programs that should be adopted to address each community's unique housing needs or conditions.

In reviewing local housing elements, HCD is required to ensure the plans conform to all specific statutory requirements. Our role in reviewing housing elements is to ensure the specific statutory requirements are addressed but recognizing there is broad variation in how different communities will respond to these requirements. These types of ordinances are legal tools in the toolbox for each community to consider in developing its plan and meeting its housing needs. I support creating as many tools and incentives as possible for communities to use in order to achieve the broadest possibility of compliance with the law and the production of homes for all income levels.

With regard to funding linkages, the Department does not now, nor do we plan to, establish any criteria connecting the adoption of local inclusionary, rent control or condo conversion ordinances to the award of state housing funds.

I hope these responses address the important issues you raise. In my short term as Director, I recognize that I have much to learn. But I am committed to working with you, the administration and housing stakeholders to achieve the important goals reflected here.

Very truly yours,



Lucetta Dinn
Director

MEMORANDUM

TO: Senate Rules Committee
FROM: Bill Gausewitz
Director, Office of Administrative Law
RE: Statement of Goals
DATE: August 10, 2004

Thank you for considering confirmation of my appointment as Director of the Office of Administrative Law (OAL).

To assist in your evaluation and pursuant to a request by Senator Burton, the following is a statement of the goals I will pursue as Director of the Office of Administrative Law. I have listed the most immediate needs first, followed by longer term projects. I have kept the statement brief, but I would be happy to provide any additional information or discussion on this subject if that would help facilitate your consideration.

My goals for this position are:

- **Ensure Proper Application of the APA:** The primary mission of the OAL is to ensure that regulations adopted by state agencies comply with the Administrative Procedure Act (APA). The APA gives Californians input into government rulemaking and assurance that regulations properly implement the laws enacted by the Legislature. The Director of OAL must ensure both that regulations conform to the APA, while recognizing that the OAL shall not substitute its judgment for that of the rulemaking agency regarding the substantive content of adopted regulations (cf. CA Government Code 11340.1). My fundamental goal as Director is to ensure that the office pursues this mission.
- **Restore Stable Leadership:** The OAL has not had a director who has been confirmed by the Senate since 1998. There have been nine changes of leadership at the OAL in six years. During this period the office has been led by a series of deputy directors, interim directors, and directors whose terms lasted less than one year and who were not offered to the Senate for confirmation. If the Senate elects to confirm my appointment, it will break this cycle of revolving door leadership and allow me to pursue the goal of reestablishing a stable work environment to the OAL.
- **Evaluate the Adequacy of OAL Resources:** The OAL budget has been reduced about one-third in the past three years. Since 2000 the total staff has been reduced from 26 people to 15; the attorney staff has been reduced from 14 to 8. Previously routine services now are not provided at all. In some cases administrative tasks, such as library maintenance and computer support services, are being handled by staff attorneys due to the loss of support staff. I plan to review the current resources available to the OAL and to work with the Legislature and the Department of Finance to evaluate whether they are adequate to allow the Office to perform its functions as necessary.

- **Review OAL Regulations and Make Changes as Desirable:** The APA requires the OAL to adopt and comply with regulations regarding its operation and procedures. As Director I will review these regulations to determine whether they can be improved. Among the matters I will consider are whether procedural changes could improve the efficiency of the rulemaking process without restricting the public's right to participate. I will also review whether the appropriate standard being used to determine whether or not emergency regulations are justified, and whether standards for application of the six substantive criteria are proper and reflect current case law requirements.
- **Expand Affirmative OAL Support to State Agencies:** The OAL staff's expertise should be available to a greater degree to assist state agencies in rulemaking. OAL should be able to provide informal guidance to agencies, for example, regarding whether or not specific practices or policies require compliance with the APA. Due to limited resources, this function has been restricted as staff concentrates on its core mission of reviewing agency rulemaking files. However, a more active role for the OAL in assisting agencies earlier in the rulemaking process might help avoid later problems. I plan to evaluate and pursue opportunities for OAL to provide more of this type of front end support for state agencies.
- **Restore A System for Handling Public Requests for Determination.** The APA provides that the OAL "may issue a determination" when it finds that a state agency is acting out of compliance with the APA [Govt. Code §11340.5(b)]. OAL regulations in effect through 2002 established a process for doing this. In 2003, due to decreased resources, the OAL stopped responding to requests for determination and repealed these regulations. I plan to revisit this issue and, resources permitting, reestablish the procedure in some form.
- **Review the APA and Make Recommendations for Necessary Improvement to the Legislature:** As with all laws, the APA should be reviewed from time to time to ensure that it is still serving the purposes for which it was designed. I will conduct such a review and, if improvements in the Act are possible, seek those improvements through legislation.

Thank you for providing me with this opportunity to explain my goals. If the Senate confirms my appointment, I will work strenuously to achieve these goals.

I thank you for your consideration.

CALIFORNIA MEN'S COLONY
Highway 1
P. O. Box 8101
San Luis Obispo, CA 93409-8101



June 9, 2004

Nettie Sabelhaus
Appointments Director
Senate Rules Committee
State Capitol, Room 420
Sacramento, CA 95814

Dear Ms. Sabelhaus:


SENATE RULES COMMITTEE QUESTIONS

This is in response to the letter dated May 21, 2004, from the Honorable John Burton, Chairman of the Senate Rules Committee, requesting response to questions provided prior to my confirmation hearing.

The response to these questions is attached for your review. I look forward to seeing you during the confirmation tour in the near future.

If you have any questions, relative to my response or any recommendations as we proceed through the confirmation process, please contact me at (805) 547-7948, as they would be greatly appreciated. If you would prefer, my email address is john.marshall@corr.ca.gov.

Sincerely,


JOHN MARSHALL
Warden
California Men's Colony

JM:sd

Attachments

Cc: Mike Neal, Assistant Director, Legislative Liaison
Ken Hurdle, Ombudsman, California Department of Corrections

Please provide a statement of goals describing what you hope to accomplish during your service as Warden.

My main objective is to work with staff to make the California Men's Colony (CMC) the best it can be. This institution offers many challenges, as it is fifty years old and has multiple problems with its infrastructure and houses approximately 6,500 inmates and operates a wide range of programs. These include medical, mental health and Prison Industries to name a few. I hope to improve the mental health delivery process, correct the problems with the infrastructure, limit as much as possible the potential for violence, while improving and expanding inmate programs such as Education and create a working environment that makes this a good place to work for all staff.

I believe my background is well suited for accomplishing these goals as I am a credentialed teacher myself and have worked very intimately in the programs I mention. While at Corcoran State Prison (COR) I fulfilled liaison duties with the Medical Staff at their licensed hospital. My areas of responsibility included the Enhanced Outpatient Program (EOP) and a large portion of the inmates in the Correctional Clinical Case Management Services (CCCMS) program. In addition, I was involved in the facility that housed the Human Immunodeficiency Virus (HIV) population.

In the position of Chief Deputy Warden at COR I had the overall responsibility of overseeing the Educational programs involving academic/vocational education and gained valuable experience in working with the large Prison Industries Authority program. I also worked closely with all the aforementioned programs while Chief Deputy Warden at California Substance Abuse Treatment Facility and State Prison at Corcoran (SATF) and as the Acting Warden at North Kern State Prison (NKSP).

BUDGET

What steps will you be taking to address projected budget reductions? How will these reductions affect inmate programming, staffing and health and mental health care of inmates? Are you currently operating within your authorized budget?

The budget reductions for fiscal year 2003/2004 have already occurred. The drills which led to a reduction in staffing have had a minimal affect on CMC, as we have continued to provide coverage for those areas affected. For example, in the area of Inmate Visiting, CMC has utilized existing resources to maximize weekend visits. At this point we have terminated visits on only one occasion. I continue to work directly with the Inmate Family Council on a regular basis to discuss areas of concern and through cooperation and understanding to reach resolution.

In respect to the 16 percent reduction drill, which eliminated additional positions, I have been able to ensure our level of safety and security were maintained while negative impact to inmate programs has been minimal.

I am currently familiarizing myself with the new budget methodology that will be in effect for fiscal year 2004-2005. I have seen a portion of the initial allotments and should be able to review the full package later this week. My staff and I are reviewing each line item to identify any areas of concern so we can voice our opinions at this early stage and try to obtain enough funds to legitimately allow us to make it through the coming year. I feel this is a step in the right direction for the Department and I am confident that as this new approach to budgeting develops it will be a viable way to manage the funds allotted to institutions.

I am also planning to spend time with staff to bring them onboard in this process and give them a solid understanding as to how this affects our institution and the role they will play in ensuring our success.

CMC is going to end fiscal year 2003/2004 over budget. I feel confident that we have been very budget conscious and have spent on an as needed basis only. There are a number of items that we were not budgeted for at the beginning of this year, such as Administrative Segregation overcrowding so we actually began the year in deficit. The new approach will attempt to remedy this situation. We consistently keep Headquarters informed as to our budget status and provide them with monthly reports that shows in detail our financial status.

STAFFING

Please provide a list of existing vacancies and identify the efforts you are making to address long-term vacancies or any other staffing problems such as in the nursing positions.

As of June 7, 2004 the institution has 69.9 vacancies; 24.1 are in custody support and 45.8 are in Health Care Services. We are experiencing difficulty in recruiting and hiring Registered Nurses and Medical Technical Assistants (MTA). This is a problem that community hospitals and prisons throughout the state are also experiencing.

VACANCY REPORT June 7, 2004

CLASSIFICATION		ASSIGNMENT	RECRUITMENT EFFORTS
CORRECTIONAL SERGEANT (LT)	(1)	CUSTODY	ADVERTISING LT
CORRECTIONAL LIEUTENANT (LT)	(1)	CUSTODY	ADVERTISING
CORRECTIONAL ADMINISTRATOR	(1)	CUSTODY	INTERVIEWING
OFFICE SERVICES SUPV. II	(1)	MAILROOM	ADVERTISING LT
OFFICE TECHNICIAN (T)	(1)	CDA - WEST	ON HOLD
CORR. SUPERVISING COOK, CF LT	(1)	FOOD SERVICES	AWAITING CANDIDATE APPROVAL
PSYCHIATRIC SOCIAL WORKER	(1)	MEDICAL	AWAITING CANDIDATE APPROVAL
SR. MEDICAL TECHNICAL ASST	(1)	MEDICAL	READVERTISING
MED. TECH. ASST	(13.3)	MEDICAL	2 - ON HOLD 11 - ADVERTISING
OFFICE TECHNICIAN (T)	(.5)	MEDICAL	ADVERTISING LT
OFFICE ASSISTANT (T)	(2)	MEDICAL	ADVERTISING LT
SUP. REG. NURSE I, CF	(1)	MEDICAL	RE-ADVERTISING & INTERVIEWING
REGISTERED NURSE, CF (FT)	(17)	MEDICAL	ADVERTISING
SUP. REG. NURSE II, CF	(1)	MEDICAL	ON HOLD
PHYSICIAN & SURGEON, CF	(1)	MEDICAL	ADVERTISING
PSYCHOLOGIST, CF, CLINICAL	(5.5)	MEDICAL	ADVERTISING
SR. PSYCHOLOGIST, CF (SUPV.)	(1)	MEDICAL	ADVERTISING
STAFF PSYCHIATRIST, CF	(1.5)	MEDICAL	AWAITING CANDIDATE APPROVAL
OFFICE SERVICES SUPV. I	(1)	RECORDS, EF	ADVERTISING
CORR. CASE RECORDS ANALYST	(1)	RECORDS, EF	ADVERTISING
OFFICE ASSISTANT (T)	(1.5)	RECORDS, WF	ADVERTISING
LT	(1)		ADVERTISING
OFFICE ASSISTANT (T) P/FT	(4.5)	RECORDS, WF	AWAITING CANDIDATE APPROVAL
LT	(1)		ADVERTISING
NATIVE AMER. SPIRITUAL LEADER	(.1)	RELIGION	ADVERTISING
SUPRV. OF ACADEMIC INSTRUCTION	(1)	EDUCATION	ADVERTISING LT
TEACHER, H. S.	(2)	BRIDGING PROGRAM	NO ACTION
PERSONNEL SUPERVISOR I LT	(1)	PERSONNEL	ADVERTISING
ACCOUNT CLERK II	(1)	PROCUREMENT	ADVERTISING
OFFICE TECHNICIAN (T) LT	(1)	VISITING	ADVERTISING

The Current Hiring Freeze inhibits the ability to hire laterals except for those making the same salary. The freeze also prohibits hiring retired annuitants.

Please provide information for custody, non-custody and health care positions that identifies positions that have been vacant longer than six months.

Vacant positions over 6 months:

1	Teacher HS G Ed, CF	Held vacant due to anticipated Education Bridging Programs needs with other institutions
4.0	Correctional Officers	Vacancies are due to Leave of Absences, Non-Industrial Disability Leave, and Military Leave
1.0	Registered Nurse	Leave of Absence

Please provide data on the sick leave usage of all staff for each of the last 12 months including any data on the use of long-term medical leave.

Hours used for Sick Self, Sick Family, and Medical Appointments

	April '03	May '03	June '03	July '03	Aug '03	Sept '03	Oct '03	Nov '03	Dec '03	Jan '04	Feb '04	Mar '04
Lieutenant	121.7	421.5	423.2	207.5	305.5	275	184	304.7	348.5	303.7	175.7	439.9
Sergeant	757	789.75	1296.9	634.7	673.7	625.7	565.2	623.7	1000	1096.5	434.2	1378.7
Officer	7415.2	6467.5	10682.2	6837.9	7371.4	6695.7	6769.1	6260.7	9242.4	8850.2	6365.4	9962.4
All Non-Custody	4022.5	4040.4	3611	3318.2	3609	4122.4	4234.7	3966.9	4247.2	3683.9	3113.9	3600.4

**No information available from Headquarters for April or May 2004

Hours used for Long-term Medical Leave

	April '03	May '03	June '03	July '03	Aug '03	Sept '03	Oct '03	Nov '03	Dec '03	Jan '04	Feb '04	Mar '04
Lieutenant	0	112	80	184	176	168	184	128	0	0	0	0
Sergeant	128	0	0	368	160	304	128	256	232	0	0	0
Officer	2224	2216	664	3102	2636.2	2863	3040	2424	1216	1184	2416	232
All Non-Custody	280	225.5	387.7	207	204	536	440	825	456	632	248	464.5

**No information available from Headquarters for April or May 2004

PERSONNEL ISSUES AND EMPLOYEE DISCIPLINE***As Warden, what steps have taken to combat sexual harassment and/or discrimination?***

Every employee is required to complete Sexual Harassment Prevention training on an annual basis. The monthly In-Service Training Bulletin also contains a half-page ad regarding sexual harassment and discrimination, listing telephone numbers for various entities involved in sexual harassment and discrimination prevention.

In conducting forums with employees, I have made it clear that I support the Department's Zero Tolerance policy in regard to any type of harassment or discrimination. Finally, and most importantly, I conduct myself in a manner that is free of sexual harassment and discrimination, thereby setting the standard for all staff.

Please provide any data regarding pending complaints.

There are no pending sexual harassment or discrimination complaints at this time.

Please provide data on each employee disciplinary action taken in the last 12 months indicating the staff level of the employee, the alleged misconduct, the results of any investigation, the level of investigation, the results of the investigation (substantiated or not substantiated) and the action taken, if any.

CMC has taken disciplinary action on thirty employees during the last twelve months (June 1, 2003 – May 31, 2004.) Please see chart on following page.

Employee Disciplinary Actions

DATE SERVED	TITLE	MISCONDUCT	RESULTS	CAT	COMMENTS
6/5/03	Correctional Officer (C/O)	Over Familiar With Inmates	Sustained	I	Reduction in Salary - 5% for 3 months
6/11/03	C/O	Did Not Attend 7K Training	Sustained	I	Letter of Reprimand (LOR)
6/11/03	C/O	Did Not Attend 7K Training	Sustained	I	LOR
6/12/03	C/O	Did Not Attend 7K Training	Sustained	I	LOR
6/16/03	C/O	Off Duty - Driving Under Influence (DUI)	Sustained	I	LOR
6/18/03	C/O	Off Duty DUI	Sustained	I	Reduction in Salary - 5% for 3 months
6/18/03	C/O	Off Duty DUI	Sustained	I	LOR
6/26/03	C/O	Did Not Attend 7K Training	Sustained	I	LOR
7/10/03	C/O	Leaving Post Without Permission	Sustained	I	LOR
8/12/03	Medical Technical Assistant (MTA)	Did Not Attend 7K Training	Sustained	I	LOR
9/24/03	C/O	Off Duty-Possession & Smoking Marijuana	Sustained	I	Reduction in Salary - 10% for 12 months
9/30/03	Sergeant	Off Duty-Possession & Smoking Marijuana	Sustained	I	Reduction in Salary - 10% for 18 months
9/30/03	C/O	Off Duty Assault and Battery	Sustained	II	Dismissal
10/3/03	PIA Industrial Supervisor	Sleeping On Duty	Sustained	I	LOR
11/4/03	C/O	Did Not Attend (7K Training)	Sustained	I	LOR
11/7/03	MTA	Insubordination	Sustained	I	LOR
11/25/03	PIA Superintendent	Inexcusable Neglect Of Duty	Sustained	I	LOR
12/2/03	C/O	Off Duty Assault and Battery	Sustained	II	Reduction in Salary - 5% for 12 mo.
12/10/03	Sergeant	Off Duty Assault	Sustained	I	Reduction in Salary - 5% for 3 months
12/24/03	Correctional Counselor I (CCI)	Off Duty Possession of Marijuana	Sustained	II	45 day suspension
1/22/04	MTA	Insubordination	Sustained	I	Reduction in Salary - 5% for 3 months
1/27/04	C/O	Off Duty DUI	Sustained	I	Reduction in Salary - 5% for 3 months
1/30/04	C/O	Off Duty Assault and Battery	Sustained	I	Reduction in Salary - 5% for 3 months
2/4/04	C/O	DUI - Drinking on Duty	Sustained	II	Dismissal
2/11/04	C/O	Off Duty DUI	Sustained	I	LOR
2/19/04	C/O	Outside employment (7K Training Insubordination)	Sustained	I	Reduction in Salary - 10% for 12 months
3/3/04	C/O	Did Not Attend 7K Training	Sustained	I	LOR
3/25/04	C/O	Possession of Drugs (Meth)	Sustained	II	Dismissal
4/29/04	C/O	Public Intoxication	Sustained	I	Reduction in Salary - 5% for 3 months
5/18/04	CCI	Off Duty DUI	Sustained	I	LOR

What criteria do you use to determine whether alleged misconduct warrants a Category I or Category II investigation?

I evaluate internal affairs investigation requests initiated in the institution and determine the appropriate category. Category I investigations are generally performance related employee misconduct of a less serious nature. I use the following Department Operations Manual (DOM) criteria in determining the category of investigations, and cooperate fully with the Office of Investigative Services (OIS) Central Region:

Category I investigations are associated with neglect of duty; abuse of sick leave; punctuality/tardiness; use of alcohol or drugs at workplace; insubordination; lack of alertness on the job; undue familiarity with inmates, parolees, or their families; conduct bringing discredit; security violations of a less serious nature; weapon violations within the workplace; misuse of state property; filing a false report in the course of duty; and driving under the influence of alcohol.

Category II investigations are generally more serious employee misconduct situations that are outside the scope of normal employee supervision, and requires special investigative skills and resources not available in the institution. I use the following general criteria to determine Category II investigations:

Felony conduct; misdemeanor law violations; multi-jurisdictional interest; wide media interest; departmental employees with non-employees; multiple employees; high-ranking employees; multiple departments or agencies; serious undue familiarity with inmates, parolees, or their families; conduct involving moral turpitude; spousal abuse and related misconduct; misuse of peace officer authority or privilege; excessive force on an inmate involving injury or unusual circumstances; dishonesty in reporting incidents involving misconduct when it undermines the integrity of the department; employee association with prison gangs, gang members, or families of gang members; and narcotic or contraband smuggling.

I or my designee conduct a conference review with OIS Central Region regarding questionable cases involving elements of both Category I and II criteria. All Category II investigations are referred to OIS Central Region. In addition to the aforementioned criteria, I may consider the availability of institutional investigators, the complexity, sensitivity, notoriety, and confidentiality of the investigation, the need for specialized equipment or expertise, off site surveillance, and service of search warrants in determining whether a Category I or Category II is appropriate.

What criteria do you use to determine the level/severity of discipline imposed?

The Employee Relations Office works through the Labor Relations Department to establish the level of discipline. The mitigating circumstances as well as aggravating are taken into consideration, together with the employee's classification, time in service, rank and employment history.

How many staff are currently using administrative time off because of pending investigations?

There are no employees at CMC currently using administrative time off because of pending investigations.

***What have you done to ensure that employees follow both CDC regulations and the law?¹⁰³
Have you taken any steps to address what is referred to as the Code of Silence?***

I try to accomplish this in a number of ways. One way is through formalized In-Service Training and On-The-Job training. There are many classes, offered which speak to the importance of following the regulations and the law. In addition to on-going classes the topic is addressed during New Employee Orientation. I speak during these training sessions and emphasize the importance of following the rules. I also hold Executive Staff Meetings on a weekly basis and give the managers my views and my expectations of them in this area. Topics such as the "Code of Silence" have been addressed during this training. In addition, the memorandum issued by Mr. Hickman, YACA Secretary, was included as a paycheck stuffer to all employees and published in the In-Service Training bulletin.

Since coming to CMC I have initiated what we call "Wardens Forums". These forums are held with staff in small groups for approximately one hour. I discuss my goals and expectations, provide staff with information from Headquarters and open myself to any questions staff might have. Through this venue I have talked to well over one thousand employees from all areas including Medical, Education, Maintenance, Counselors, Correctional Officers, etc.

I also feel it is important to lead by example. My background shows that I conduct myself in a professional manner and at no time do I put myself above the law. I have spoken to the issue of "Code of Silence" since my days as a Litigation Coordinator in 1990. I think it is very important that the Warden address these issues openly and often with employees.

INMATE RELATIONS

What problems are you experiencing regarding inmate violence at your institution? How are you responding to those problems, especially in terms of violence reduction strategies?

CMC has experienced a series of incidents during the last few years. These have been attributed to the large influx of young violent inmates who are actively involved in gang and disruptive group activities. Additionally, these young inmates view incarceration at CMC as undesirable because of the institution's long-standing history of housing inmates with sensitive case factors. They have begun to attack other non-affiliated inmates at first sight without warning or provocation.

In order to better deal with these situations, CMC has instituted proactive measures to reduce acts of violence. We have implemented several procedures to regulate and control the numbers of inmates on the recreation yard and continue to identify inmates who assume leadership roles or membership in disruptive groups. These procedures are delineated below:

An example of this is controlled inmate access to programming opportunities. This is in effect at CMC-East Facility after 1900 hours on weekdays and 0930 hours on weekends/holidays. Essentially, controlled access mandates that on an hourly basis, for a ten-minute period, inmates will have the option of changing their location/activity on their quad (their assigned cell, respective tier game/television room or the yard). Inmates shall continue to be permitted to attend authorized activities such as assignments, group therapy, visits, and respond to ducats.

CMC East Facility Privilege Group "C" yard restriction guidelines for inmates in Work and/or Privilege Group "C" (C/C, A1/C, and A2/C) start at 1300 hours to approximately 1700 hours, after the 1630 hours count clears. Inmates are released for the evening meal and medication. At 1900 hours, inmates on C-status are recalled to their assigned cell. Inmates on C-status are

permitted to access scheduled ducats, visiting, participate in work/training assignment, and 04 main canteen (regular draw day only).

New Arrival Intake Process-Oriented is a collaborative effort by key staff to gather and catalog intelligence information regarding disruptive group/prison gang members/affiliates, and monitor these individuals, evaluate and analyze the gathered information. This information is utilized to house, transport, and assess these individuals' propensity for engaging in organized disruptive behavior. We are working with Classification Services Unit to assist us in ensuring only the appropriate inmates are endorsed for West Facility (Level I & II), as this is a dorm setting and does not currently have an electrified fence.

In addition, at CMC the Institution Gang Investigator (IGI), first and second line Supervisors and Correctional/Facility Captains are aggressively training staff in disruptive groups/prison gang dynamics and monitoring the inmate population. The IGI regularly attends Gang Task Force meetings where critical intelligence is disseminated regarding recent developments or trends in society, as well as prisons, that are detrimental to the safety and security of the institution.

Please provide data on the number of formal and informal 602's, custody and medical, filed by inmates, by yard, in the last 12 months and the time to respond to those appeals. Do you have data on how many 602's have been "screened out?"

Informal and screened out appeals are not tracked by CMC. There have been 3261 Formal Level appeals filed within the last twelve months.

West Facility (non-medical)	759
East Facility (non-medical)	1714
West Facility (medical)	257
East Facility (medical)	531

98.1 percent of custody appeals and 87.7 percent of medical appeals have been responded to within prescribed timeframes. We are unable to provide the requested statistical information by yard due to the limitations of our tracking system. A new system was implemented in April 2004 that will greatly improve our ability to collect statistical data in the future.

How many lockdowns have occurred at your institution in the past year? Please indicate the duration, specific unit location, the approximate number of inmates involved and the reason. What is your policy with regard to lockdowns and the extent to which they have the least impact on uninvolved inmates?

CMC has not had a total lockdown that has exceeded 24 hours. The following provides information regarding the eleven instances of Modified Programs that occurred during the past twelve months.

Modified Programs

Date	5/31/03
Location	Unit IV
Duration	3 days
Number of Inmates Involved	13 involved/603 affected
Reason	Riot
Date	6/8/03
Location	West Facilities, Units I, II, III, IV
Duration	1 day
Number of Inmates Involved	1 involved/2850 affected
Reason	Attempted Escape
Date	6/21/03
Location	Unit IV
Duration	2 days
Number of Inmates Involved	55 involved/602 affected
Reason	Grouping/Discovery of weapon
Date	7/1/03
Location	Unit II
Duration	2 days
Number of Inmates Involved	8 involved/903 affected
Reason	Riot (Northern/Southern Hispanic)
Date	10/14/03
Location	Unit IV
Duration	2 days
Number of Inmates Involved	78 involved/602 affected
Reason	Racial Riot (White/Hispanic)
Date	10/18/03
Location	B-Quad
Duration	37 days
Number of Inmates Involved	40/(get B-Quad pop this date)
Reason	Riot (Northern/Southern Hispanic)
Date	3/3/04
Location	A-Quad
Duration	61 days
Number of Inmates Involved	71 involved/1062 affected
Reason	Racial Riot (White/Hispanic)
Date	4/28/04
Location	Unit I
Duration	2 days
Number of Inmates Involved	15 involved/906 affected
Reason	Racial Riot (White/Hispanic)
Date	4/30/04
Location	Unit I
Duration	3 days
Number of Inmates Involved	8 involved/919 affected
Reason	Racial Riot (White/Hispanic)
Date	5/7/04
Location	A-Quad
Duration	3 days
Number of Inmates Involved	Unknown/1087 affected
Reason	Racial Grouping (Black/Hispanic)
Date	6/1/04
Location	B-Quad
Duration	Ongoing
Number of Inmates Involved	12 involved/594 affected
Reason	Riot (Northern Hispanic)

Whenever it is necessary to place a housing unit on lockdown or modified program status, every¹⁰⁶ effort is made to quickly identify involved inmates. As soon as those inmates are identified, they can be removed from general population, if appropriate. In addition, and as soon as safely possible, those inmates or groups of inmates determined to be uninvolved can be returned to normal or near normal program. It is always the goal of administrative staff to return to normal program as soon as possible, while maintaining safety and security for staff and inmates.

During periods of modified program, inmates are escorted to medical appointments, medical staff make rounds of affected areas if necessary, or inmates are released in a controlled manner to attend medical appointments and receive medication. Inmates are allowed to visit if at all possible, whether that means they are released individually when called for a visit, or escorted by staff to the visiting room. Regular meetings are held between administrative staff and the Men's Advisory Council (MAC) in affected areas, to keep the inmate population apprised of the situation as it evolves and to maintain open lines of communication for inmates to express their needs in relation to the program.

What is your relationship with the Men's Advisory Committee? How often do you personally meet with them to hear their concerns?

CMC is divided into a West Facility and an East Facility and each has their own MAC. I hold meetings with both groups individually. In meeting with both MAC groups we decided to meet every other month. If issues arise that warrant the groups' attention between meetings, arrangements would be made to have representatives from both sides get together to discuss these issues. I feel that the meetings have been meaningful and there is the openness necessary to bring issues to light and an air of cooperation which leads to resolution. We have a very good dialogue and minutes are kept and signed by both sides of the table.

OVERCROWDING

Please provide a summary of your inmate population including custody level and ethnic background.

Inmate Population

East Facility (Level III)			West Facility (Level I & II)			Total	
Ethnicity	Number	%	Ethnicity	Number	%	Number	%
White	1141	31	White	766	27	1907	29
Black	1191	32	Black	653	23	1844	28
Hispanic	1090	29	Hispanic	1234	43	2324	36
Am Indian	36	1	Am Indian	21	1	57	1
Other	239	7	Other	171	6	410	5
Total	3697			2845			6542

What is the capacity of your institution and at what percentage over that number are you operating?

The total design capacity of East and West Facilities is 3884. The current population is 6527. This is 68 percent over design capacity.

RECIDIVISM

What are you doing to reduce recidivism?

CMC provides inmates a variety of opportunities designed to prepare them for successful re-entry to society. Literacy is the primary focus of the Education Department with 23 programs culminating this past year in 40 inmates receiving their General Education Diploma (GED). Ten Vocational Programs provide entry-level job skill training and some apprenticeship training. CMC has approximately 500 inmates attending monthly Narcotics Anonymous (NA) and Alcoholics Anonymous (AA) meetings. Over 200 inmates participate in numerous faith-based groups such as Criminals and Gangs Members Anonymous (CGA), the Alternative to Violence Project (AVP) and the Victim Impact Program. Mental Health Clinicians at CMC offer Stress Management and Anger Management classes for interested inmates.

CMC is also home to the largest Prison Industry Authority (PIA) operation in CDC. PIA at CMC employs approximately 650 inmates. Many of the inmates employed by PIA leave CMC with certificates in such areas as forklift operation, welding and fundamentals of laundry. In addition to these "hard" employability skills, PIA inmates gain "soft" employability skills, i.e. on-time attendance, good conduct on the job site and the required interpersonal skills to succeed in a work environment.

The West Facility has a Substance Abuse Program (SAP) with 180 inmates enrolled. The SAP provides counseling and skills training to enable inmates to overcome substance abuse issues which might hinder their efforts to successfully complete parole.

Are inmates assessed with a pre-release program that is developed based upon their individual needs?

CMC offers a three-week re-entry program prior to release. The program is designed to change thinking patterns and offers practical information to assist inmates on parole. The program provides information about local government resources in each inmate's community as well as private non-profit community resources, including information regarding job opportunities. Information is made available to inmates from the Department of Motor Vehicles regarding drivers license status. In addition, the Parole and Community Services Division (P&CSD) has just recently begun enacting the New Parole Model (NPM), one component of which is the assignment of a team of P&CSD staff to all California Department of Corrections institutions. The team is tasked with the responsibility of developing and implementing effective and specific re-entry plans for inmates that maximize that individual's chances to successfully re-integrate into the community.

Do any of your pre-release programs incorporate inmates' families?

Currently, no pre-release programs incorporate inmates' families.

How much time per day/week is an inmate involved?

The inmates are scheduled to participate in the pre-release program for 6½ hours per day, totaling 32½ hours per week.

How will these programs, if any, be impacted by any proposed budget reductions?

There are no proposed budget reductions, which will impact education programs that CMC is aware of at this time.

Have you instituted or expanded any programs to further reduce the risk that inmates will be returned to custody?

In addition to the implementation of the New Parole Model, CMC is in the process of expanding its vocational program by adding a Drywall/Painting Class at the West Facility. This class will train 27 inmates to include five apprentices through the local carpenter's union. Inmates who successfully complete this apprenticeship course will be directly employable through the carpenter's union upon release. Additional inmates who complete this course (non-apprentice) will have significantly increased their chances for employment upon release, as they will have gained at least entry level skills in drywall and painting, including lead abatement.

DRUGS

How are you addressing the problem of inmate access to illegal substances? What specific steps have you taken to eliminate potential sources?

The institution is addressing inmate access to illegal substances in a number of different ways. The decision to adopt and implement a vendor package program was in part an attempt to remove from the process those individuals who previously had used the quarterly package program as a means to traffic narcotics and other illegal contraband into the institution. In addition to the vendor package program, the institution completes criminal history background checks through the California Law Enforcement Tracking System on all non-state employees, vendors and visitors entering the security perimeter. Our Investigative Services Unit (ISU) actively follows up on all information and evidence of misconduct, be it by staff or inmates. All staff entering or exiting the Institution must present their State Identification card to a uniformed on-duty staff member and are subject to a cursory search of their lunch boxes, purses and briefcases. All visitors are positively identified and now law enforcement visitors are searched and required to pass through a metal detector, prior to admittance to the prison through our entrance building. Inmate housing, work and recreational areas are subjected to both routine and unscheduled searches on an ongoing basis.

Inmates found to be in possession of illegal substances are subjected to the disciplinary process, and in some cases criminal prosecution. Employees who involve themselves in illegal substances, regardless of classification, are also subject to a disciplinary process and like inmates, criminal prosecution if the circumstances warrant.

In addition to these processes, the institution also makes available to the general inmate population opportunities to voluntarily participate in self-help programs like Narcotics anonymous and Alcohol Anonymous. These two particular self-help groups are sponsored by off-duty staff volunteers and are very popular and well attended.

EDUCATION AND WORK PROGRAMS

What educational and what vocational opportunities exist at your facility?

CMC offers a wide variety of educational and vocational opportunities.

East Facility		
Academic	ABE/ESL	1
	ABE I	3
	ABE II	2
	ABE III	1
	Computer Literacy Lab	1
	GED	1
	Substance Abuse A Process of Change	1
	Small Business Light Industry	1
	Re-Entry (rotates East & West every 3 weeks)	1
	Developmentally Disabled Program for DD3	1
Vocational	Auto Mechanics	1
	Dry Cleaning	1
	Welding	1
	Electronics	1
	Office Services & Related Technology	1
	Machine Shop	1

West Facility		
Academic	ABE/ESL	3
	ABE I	2
	ABE II	3
	ABE III	1
	Computer Literacy Lab	1
	GED	1
	Re-Entry (rotates East & West every 3 weeks)	1
Vocational	Electronics	1
	Auto Body	1
	Landscaping	1
	Small Engine Repair	1

What hours do they operate, in which yards and over what length of time?

All programs operate from 0745-1545 hours. Inmates from all yards go to programs, which are located in the Central Services area of both East and West Facilities.

Is there a waiting list for these programs? If so, how long is it?

Each program has a waiting list. The East Facility has a waiting list for Academics of 550 and Vocational of 189, totaling 739. The West Facility has a waiting list for Academics of 197 and Vocational of 43, totaling 237.

What programs have been eliminated or downsized in the last twelve months?

In December of 2003, the following vocational programs were eliminated: Shoe Repair, Radiological Technology, Mechanical Drawing, and Upholstery.

Have you instituted the new "Bridging Program" to provide education to inmates in reception centers who await permanent assignment to institutions? If so, what is your view of how it is working?

All inmates eligible for the GP Bridging Program at CMC are placed in the program within days of reception.

If the purpose is to have eligible inmates programming as soon as possible, thus saving the state money to house the inmates, then the program is successful. If, however, the purpose is to provide educational services, the short contact time and inability to monitor inmates except by work product makes proper evaluation difficult. It appears that self-motivated inmates do well, but due to the limitations of this approach, it should never be offered as a substitute for the more structured classroom setting for the large majority of inmates.

Are you making use of video instruction or distance learning?

CMC has subscribed to the Corrections Learning Network (CLN). CLN is a distance learning initiative that provides quality educational programming to correctional communities nationwide via satellite broadcast. CLN is administered by Educational Service District 101 and is funded through a Star Schools grant for the U.S. Department of Education.

The CLN subscription will allow CMC to receive educational video content via satellite broadcast, record the broadcast on videocassette, and offer its video content to instructors for classroom use. Exercise material, as it relates to each video, will also be provided to instructors for student use. Additionally, periodic assessment tools will be available to evaluate the program's effectiveness and to identify the instructional needs of student participants.

Video content will include GED preparation courses, Employment and Life Skills training such as Stress Management, Anger Management, and Communication. Additional courses include varying levels of Language Arts, Reading and Writing, Mathematics, Social Studies, and Science. Other useful courses will be offered as part of the subscription and will be provided to instructors for their instructional use.

A local satellite company has been contacted and made an initial visit to CMC to install the satellite dish. The installation process is ongoing and completion is anticipated in July 2004.

What work programs exist at your facility, including Prison Industry Authority? What hours do they operate and over what length of time? Is there a waiting list for these programs? If so, how long is it? How many employees are employed in work programs?

CMC has the largest Prison Industry Authority Program (PIA) in the state, employing approximately 655 inmates and 51 staff. PIA at CMC trains inmates in the Knitting and Finishing Mill, Fabric Products, Shoe Factory, Print Plant, Laundry, Maintenance and Research & Development and the Warehouse Distribution Center.

The PIA factories operate Monday through Friday, except holidays. The staff hours are 0720 hours to 1550 hours and the inmate hours are 0730 hours to 1525 hours. Several of the factories work overtime on a regular basis in order to meet production demand.

There are currently 43 eligible inmates on the waiting list for PIA assignments. The timeframe for the waiting list varies significantly, depending on the inmate's skills and job availability. Plant Operations employs approximately 191 inmates and 77 staff. Plant Operations inmates are assigned from 0745 hours to 1545 hours with staff working 0730 hours to 1600 hours, Monday through Friday, except holidays.

Camp Cuesta employs 99 inmates assigned to the California Department of Forestry and 35 inmates assigned to the National Guard. The CMC Firehouse trains and employs 12 inmate Firefighters who work under the supervision of four Fire Captains, one Hazardous Materials Specialist and one Fire Chief. The inmates are trained in fire suppression and Hazardous Materials Abatement and the Hazardous Materials Unit is an integral component of the countywide Hazardous Materials Response Unit.

Inmates are also assigned to various other work assignments, including dining rooms, kitchen, clothing distribution, clerical, porter assignments, yard crews, outside work crew, etc.

What percentage of the inmates at your institution participate in educational, vocational and work programs (please specify a percentage for each).

CMC has 6 percent participation in Academic programs on the East Facility, Level III and 5 percent on the West Facility, Level II, totaling 11 percent of the eligible population. Participation in the Vocational programs equals 4 percent on the East Facility and 2 percent on the West Facility totaling 6 percent of the eligible population.

1840 inmates participate in the Work programs on the East Facility, which equals 50 percent of the eligible population and 1565 on the West Facility equaling 54 percent of the eligible population.

Please provide a breakdown by race and custody level.

Ethnic balances are based on set formulas for each facility.

East Facility (Level III)		West Facility (Level II)	
Ethnicity	Percent	Ethnicity	Percent
Black	34	Hispanic	43
White	30	White	27
Hispanic	28	Black	23
Other	7	Other	6
American Indian	1	American Indian	1

What work programs are available for life term inmates?

CMC-East Life term inmates with Medium A custody are allowed to participate in almost all of the 2,511 work/education assignments throughout the institution with the following exceptions:

Position	
Janitorial Maintenance	7
Bridging Education Program	162
Prison Industry Authority(PIA) Docks	10
PIA	525
Hospital/Diet Kitchen	43
Vocational Dry Cleaning	27
Main Kitchen/Dock area	111
Bakery	46
Inmate Day Labor	17
Total number of excluded positions:	948

Inmates serving life sentences are not housed on the West Facility. The West Facility is not considered a Secure Level II due to the lack of electrified fencing.

What are the limits on job pay numbers for lifers and what can be done to expand the jobs available to these inmates?

Inmate Pay is the same for lifers and determinate term inmates. There are approximately 946 pay numbers for inmates in support service positions. All PIA and IDL positions receive pay. The average work period is 125 to 151 hours. The following is a break down of the five different hourly Inmate pay ranges in the Departmental Operational Manual (DOM) for support services jobs:

Laborer	(\$0.08-\$0.13)
Semi-Skilled	(\$0.11-\$0.18)
Technician	(\$0.15-\$0.24)
Special Skills	(\$0.19-\$0.32)
Leadperson	(\$0.32-\$0.37)

PIA positions receive pay as follows:

Laborer	(\$0.30-\$0.40)
Semi-Skilled	(\$0.45-\$0.55)
Technician	(\$0.55-\$0.65)
Special Skills	(\$0.65-\$0.75)
Leadperson	(\$0.75-\$0.95)

IDL pay range is as follows:

Laborer	(\$0.40-\$0.90)
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If there are security concerns, do these respond to a statewide policy or are they institution based?

Security concerns limit a minimal number of Medium A custody life term inmate assignments. Close B custody Lifers are restricted from working in numerous assignments based on CCR title 15 restrictions identified in section 3377.1, based on hours of assignment. Additionally, local procedures imposed by PIA and CMC administration restrict Close B custody inmates from assignments in PIA, the Main Kitchen/Bakery and loading dock areas to curtail access to areas vulnerable to escape attempts. The fact that an inmate is a lifer is significant when speaking of safety and security and this fact cannot be overlooked.

What is the average reading level of your inmates?

The average reading level of inmates at CMC is 5.9 as evaluated on the Test of Adult Basic Education (TABE).

Do you feel that your education and/or work programs could be improved? How?

The education program at CMC serves only 17% of the eligible population at CMC. The majority of these inmates read at below 6th grade level. Providing more literacy programs and vocational trade opportunities would translate into greater job potential for inmates upon release. Implementing a comprehensive education program, which would serve the needs at CMC, would require a third watch program. Additional custody coverage would be necessary to monitor the inmate movement.

HEALTH CARE

In your opinion, what is the role of a warden in ensuring that health care is being provided in an appropriate and cost-effective manner?

It is my policy and expectation that all inmates at California Men's Colony (CMC) will have access to and receive the medically determined treatment they require. I have established the expectation at CMC that there will be no institutional operational impediment to inmates in facilitating access to medical services. Insuring that inmates have access to needed medical services at the earliest possible time is very important to being cost effective. Those inmates who require medical treatment outside the institution are transported locally. I assure that the CMC transportation teams are appropriately staffed to meet medical transport requirements.

The key to realizing success is developing a collaborative effort between medical and custody. This is currently in progress at CMC.

What are the current problems or difficulties that challenge health care delivery at your facility?

One current problem would be the expanded medical and mental health programs without adequate physical plant space for health care offices, clinic space and pharmacy operations. As with all other CDC medical institutions, we have difficulty recruiting Registered Nurses (RN) and MTAs. In addition, recent court case requirements have increased RN to patient ratios which have made it necessary to close a number of hospital beds due to our inability to recruit and hire sufficient staff.

Are any steps being taken to improve the medical appeals process? How do you track appeals at the informal level? Who is responsible for medical appeals?

The Medical Appeals Coordinator logs, tracks and facilitates appeal responses and works directly with the Health Care Manager's (HCM) office to analyze trends and specific areas of concern. Ongoing management oversight assures timely and appropriate appeal response to medical and American Disabilities Act (ADA) issues. I ensure that there is open dialogue between medical and custody Appeals Coordinators. Custody Appeals Coordinators also assist with medical appeals as needed. I review statistical data relating to Medical Appeals.

Do you have inmates who are housed in your infirmary beds who might more appropriately be housed in a skilled nursing facility? If so, approximately how many?

At any given time, a significant percentage of our Acute General Care Hospital (AGCH) beds are occupied by long-term nursing facility type patients. Actual numbers vary, but are usually from 10 – 30 percent.

What is your institution's policy on charging for co-pays? What constitutes a follow-up visit?

The CMC co-pay policy is within department regulations. Follow-up visits are generally scheduled by the primary provider and are exempt from co-pay.

When inmates arrive from other prisons, what is your policy regarding medication prescribed at other prisons? With regard to "chronos" that have been issued at other prisons? When you transfer inmates to other prisons, do you send prescribed medication information with them?

We honor the inmate's prescribed medication upon their arrival and rewrite medication orders when necessary. Chronos from other institutions are honored until rewritten by CMC staff. Patients leave CMC with the designated amount of prescribed medication when paroled. Otherwise, transfer packets include patient medication orders, and necessary medical information for enroute/or transferring inmates.

Does your institution have difficulties recruiting adequate medical staff? If so what steps have you taken to remedy this problem?

As with all other CDC medical institutions, we have difficulty recruiting Nurses and MTA's. CMC is utilizing the Office of Selection and Standards hiring process in order to facilitate the filling of these vacancies. It should be noted that Health Care Services Division is implementing a statewide hiring process to address this need on a statewide basis.

How often do you meet with the health care manager and/or chief medical officer? How do you promote collaboration between correctional and healthcare staff? Is there a specific person responsible for coordinating issues involving both custody and health care?

The Health Care Manager (HCM) and I attend the weekly Executive Staff meetings where information is exchanged. I also participate in scheduled monthly meetings with the HCM, in order to assure effective discussion of ongoing mutual concerns. My door is always open for

discussion should a problem arise in the interim. There is no designated custody management¹¹⁵ liaison at this time at CMC. The Inmate Medical Services Plan staff augmentation will not be allocated until January 1, 2005 pursuant to Plata; at that time a Correctional Administrator will be assigned to liaison responsibilities; until that time the Associate Warden, Classification and Treatment, facilitates the liaison between medical services and institutional operations.

What health care personnel are available to your inmates? Who evaluates an inmate's need for medical, dental and mental health care and what is the average wait for non-emergency care? Are any physicians or dentists on prolonged leave for any reason including military leave?

The health care personnel available to inmates include: doctors, nurses, psychiatrists, psychologists, social workers, psychiatric technicians, dentists, recreational therapists, medical records staff, physical therapist, orthotist, speech therapist and dieticians. The wait time for patient access is no longer than one week.

Determination of treatment needs may occur in a number of ways. First, every inmate arriving at CMC is screened in Receiving and Release by nursing staff, who interview the inmate and review his files, particularly his Unit Health Record, for documented treatment needs. Any inmates with identified urgent treatment needs are immediately referred to medical, mental health or dental staff. Inmates can also self-request help by submitting an Inmate Request form, by talking to staff in person, or by going to sick-call at the medical clinic and speaking to staff there. Staff can also refer inmates whom they identify as possibly having a new treatment need, again either by a written referral, an in-person conversation with medical staff, or a telephone call. Referrals come from staff in all categories, including custody staff, supervisors of inmate workers, teachers and so on.

According to the Plata case mandates, all referrals for health care (medical, surgical, dental, mental health) are identified by treatment staff as emergency, urgent or routine. Emergency referrals are seen immediately and would include such things as suicidal thoughts, active bleeding, acute onset chest pain, a seizure etc. Urgent referrals could include problems like unpleasant medical side effects of pain from an abscessed tooth, and need to be seen within three working days. Routine referrals can include such things as a tooth cavity, acid reflux heartburn, or an inmate's request for inclusion in a particular counseling group, and are to be scheduled for interview within seven days. These timeframes are the same whether the referral is an inmate self-referral or a staff referral.

There is currently no staff on a prolonged leave.

What mental health treatment is available at your institution? How many slots are available and is there a waiting list for these treatment services?

CMC has a designated capacity for 530 EOP inmates, 54 Administrative Segregation EOP inmates and 1049 CCCMS inmates. CMC also has a DD-3 program, an Outpatient Housing Unit (OHU) primarily used for mental health treatment and performs referrals of mental health inmates who are not doing well in the prison environment to the Department of Mental Health Services (DMH) inpatient programs (Atascadero State Hospital, CMF-DMH and SVSP-DMH). CMF-DMH and SVSP-DMH often have waiting lists and referred patients must be managed while they wait either in our EOP program, or OUH, or referred to a licensed Mental Health Crisis Bed program elsewhere.

CMC has overall the best mental health professional staff in the State and a high retention rate for its employees. There is no waiting list for inclusion in CMC's EOP or CCCMS program

(either inmates at CMC whose level of care changes, or for transfers from other institutions).¹¹⁶ Certain specialty treatment groups have a waiting list, as groups can only accommodate a certain number of inmates per group, mostly due to the physical space limitations of small group treatment rooms. CMC can accommodate a total mental health population of up to 1700 inmates on the two yards with existing office space and satellite pharmacies.

Are priority ducats issued to inmates in need of medical and dental care so that they can be seen throughout the day? What are the specific hours that inmates are seen for routine medical and dental care?

All medical appointments are by priority ducat. Regular (non-emergent) hours of appointment for medical and dental are 0730 – 1630 hours.

What is the “no-show” rate for healthcare clinics? What steps have you taken to assure that inmates keep their scheduled medical appointments?

The no-show rates are not readily available. All medical appointments are by ducat and custody staff assures ducats are delivered to the individual inmate. Those inmates who fail to report are located and escorted to their appointment or rescheduled.

My initial inquiry revealed some problems in this area, prompting me to form a committee to address these issues. We are currently holding meetings on an ongoing basis. The goal of this committee is to improve the ducat process, for the benefit of inmates and staff alike.

What is your medical budget? Who negotiates and handles your medical contracts?

The Medical budget is approximately 27 million dollars for personnel services; approximately 19 million dollars for Operating Expense and Equipment (OE&E) totaling 46 million dollars. CMC's Medical Contracts Manager in conjunction with Health Care Services Division Contracts Unit in Sacramento as well as the Institutional Business Services Manager and HCM oversee and manage the medical services budget in collaboration.

I hold monthly meetings with the HCM and Associate Warden, Business Services to review the institution and medical budgets. At these meetings we review line items to ensure that monies are being spent appropriately. We also look for any spikes in spending and determine the drivers to see if they are legitimate.

LAW LIBRARY

What is your policy regarding the searching of inmates' material in the law library?

When inmates check out books, the library officer checks folders and other materials at random. If the library's theft detection device activates, inmates are searched by the officer. Any personal items that are not allowed out of the yard per CMC policy, or are not related to library activities, are confiscated.

Inmate legal material in the law library is considered confidential. Its treatment is the same as for handling confidential mail. It may be searched for prohibited material in the presence of the inmate, but the contents may not be read (DOM §54010.20.2). If the content is inadvertently read it will be kept in strict confidence (DOM §54010.20.2).

What is subject to confiscation?

Personal, non-business correspondence and contraband, as defined in CCR Title 15 Section 3006, or any letters and other communications to be forwarded to persons that are not members of the bar or holders of public office, are considered prohibited material and may be confiscated. As confidential correspondence is a right, any abuse of that right shall be subject to disciplinary action (DOM §54010.20).

When is the law library open? If the library is closed on specific days, how do inmates access it if those days are inmates' days off?

The Law Library schedules are formulated to give the maximum amount of access to the most inmates (DOM §53060.10). In the unlikely event that an inmate's work schedule conflicts with all of his law library access time, he may send a Request For Interview to the Senior Librarian and he will be given a ducat for special access. Notices informing inmates of this procedure are posted throughout the inmate housing areas at CMC.

The East Library is open Monday through Friday from 1245 to 2045 hours and Sunday from 0900 to 1545 hours. Administrative Segregation Unit (ASU) access is available on Tuesday and Wednesday from 0800 to 1130 hours. Each quad has access to the Law Library four days a week. The days and time slots rotate each month.

The West Library is open Monday through Friday from 1245 to 2045, and Saturday and Sunday from 0815 to 1545 hours. Each unit has access to the Law Library five days a week. The days and time slots rotate each month.

Because there are day, evening and weekend hours, and inmates with pending cases receive priority ducats, all inmates are provided sufficient access to the Law Library.

What is the charge for copies?

Inmates are charged ten cents per copy. For indigent inmates there is no charge.

LITIGATION AND SPECIAL PROBLEMS

Please provide the committee with a list of the following: (1) all pending litigation in which you or your institution is named; (2) any judgments or settlements against you or your institution since you have been Warden; and (3) any existing court orders involving your institution. Please comments on any litigation that has been given a court date, all judgments or settlements and the status of any court orders.

Refer to the Attachments A and B or details.

How many EEO complaints has your institution received in the past two years?

There were 63 informal complaints received in the EEO Office in the last two years. Of these informal complaints, 43 were deemed non-EEO related and were responded to at the supervisory level. Twenty were EEO related and were handled informally through CMC's EEO Office.

There were six formal complaints filed.

How many of them have been resolved?

There is one informal complaint that we are in the process of resolving, all other complaints have been resolved.

Two formal cases are pending investigation through the Office of Civil Rights (OCR). All other formal cases have been resolved. The two pending cases involve alleged race discrimination.

Are there any special problems you care to share with the committee? Are there any events in your past that the committee might regard as relevant to the confirmation process that you have not commented on elsewhere?

All special problems have been addressed previously above. There is nothing in my background of a negative nature that I believe warrants your attention or concern. I have a good reputation and possess the values and ethics that have helped me make the right decisions while facing difficult challenges.

(John Marshall named as defendant/co-defendant)

CASE NAME	COURT	CASE NO.	DATE RECVD.	COMPLAINT
LYLE HOOD v. SMITH	U.S. DISTRICT COURT EASTERN DISTRICT	CV F-97-5013	05/1997	Assigned DAG, S. Acquisto, (916) 324-1456.
CALVIN JONES v. MARSHALL	U.S. DISTRICT COURT EASTERN DISTRICT	CV F-99-5546	01/1999	Plaintiff alleges he was placed on a SHU yard where other inmates attacked him. Plaintiff alleges his attack was conspired by staff. Discovery stage. Assigned DAG, M. Gorman, (619) 645-2617.
MICHAEL CLARK v. CDC	SACRAMENTO COUNTY SUPERIOR COURT	01 AS06309	10/2001	3 RD Amended complaint. Assigned DAG, D. Carrasco, (916) 323-1938.
JESUS AVILA v. TERHUNE	U.S. DISTRICT COURT EASTERN DISTRICT	CIV F-01-5589	07/2002	Plaintiff claims he was denied his due process because staff failed to provide him with (1) notice of EME investigation; (2) all copies of non-confidential documents; (3) a full and fair hearing; (4) no sufficient and reliable evidence to validate him as an EME associate. Assigned DAG, B. Cashdollar, (916) 327-5596.
KENNETH MARTINEZ v. CATHEY	U.S. DISTRICT COURT EASTERN DISTRICT AT FRESNO	CIV F-02-6619	DATE FILED 12/2002	Plaintiff claims Prison officials imposed an indeterminate SHU term on him based on allegations he is a gang associate. Assigned DAG, R. Reyff, (415) 703-5707.
*GREGORIO FUNTANILLA v. TRISTAN	U.S. DISTRICT COURT EASTERN DISTRICT AT FRESNO	CIV F 02-6001	12/2003	Plaintiff alleges there was no required input from staff psychologist or staff assistant assigned for disciplinary hearings. Assigned DAG, K. Pollard, (916) 327-6757.
*MAURICIO MONTANO v. GALAZA	U. S. DISTRICT COURT EASTERN DISTRICT	CIV F 03-5891	12/2003	Plaintiff alleges that due to being wheelchair bound, he is denied access to Legal Library, Exercise Yard, double celling and cell has no table. Assigned DAG, K. Hammond, (916) 322-4638.
*JOSEPH BENNETT v. MARSHALL	U.S. DISTRICT COURT CENTRAL DISTRICT	CV 03-9613	01/2004	Plaintiff received CDC 115 for refusal to take TAFE test, resulted in loss of good time credits. Assigned DAG, B. Browne, (213) 897-7816.

PENDING LITIGATION (CONTINUED)

*DAVID BRINSON v. STOCKMAN	U.S. DISTRICT COURT EASTERN DISTRICT	CIV F 03-5504	03/2004	Plaintiff alleges he was wrongfully retained in ASU for no reason. Assigned DAG, G. Fayard, (916) 327-7858
*NOEL RAY SMITH v. BLANKS	U.S. DISTRICT COURT CENTRAL DISTRICT	CV 03-07626	03/2004	Plaintiff claims the ban on hardcover books was implemented in a capricious manner. Assigned DAG, E. Keech, (213) 897-6293
*JASPAL SINGH v. MARSHALL	U.S. DISTRICT COURT CENTRAL DISTRICT	CV 04-2114	05/2004	Plaintiff alleges he has been denied his right to exercise his religious beliefs, which resulted in the issuance of CDC 115 for refusing to be in compliance with the inmate grooming standard, (hair). DAG not yet assigned.
* Named In Lawsuit Since Arrival At The California Men's Colony				

JUDGMENT/SETTLEMENT

CASE NAME	COURT	CASE NO.	AGREEMENT DATE	JUDGMENT/SETTLEMENT
VICTOR WAYNE COOPER v. STATE OF CALIFORNIA; CALIFORNIA DEPARTMENT OF CORRECTIONS, et al	U.S. DISTRICT COURT NORTHERN DISTRICT	C02-3712	11/2003	California Department of Corrections commits to having a four-week cycle kosher menu developed by a registered dietician in order to implement the Kosher Diet Program. CMC implemented a Kosher diet program for Victor Wayne Cooper on 01/08/04. This menu incorporates a kosher meal for breakfast, lunch and dinner within the dietary laws of Jewish religious beliefs.

CASE NAME	COURT	CASE NO.	ORDER DATE	ORDER
FRANK LIPSKI	SAN LUIS OBISPO SUPERIOR	HC3952(1)	01/2004	The time spent by the Petitioner in the electronic monitoring program, a total of sixty-six (66) days is actual and good custody time and shall be credited upon Petitioner's term of his imprisonment.
FRANK JAMES LICHER	SAN LUIS OBISPO SUPERIOR	HC 3982 (1)	05/2004	(1) "VIO" administrative determinant, (2) "P" code and any alleged gang affiliation is ordered to be removed and re-classify Petitioner without reference to (1) and (2) above.
HAROLD LEE BRITTON	SAN LUIS OBISPO SUPERIOR	HC 3960 (1)	04/2004	The "VIO" administrative determinant is ordered to be removed from Petitioner's classification profile and MSF housing be considered.
DAVID A. TIGER	SAN LUIS OBISPO SUPERIOR	HC 3927 (4)	01/2004	Petitioner is awarded twelve (12) day's credit restored and CDC 115 Log No. CMC-W-03-00191 expunged from prison record.

COMMENTS ON THE COURT ORDERS

1. (Victor Cooper) – This case originated at California Medical Facility (CMF). The inmate transferred to CMC subsequent to the settlement of the issue.
2. (Frank Lipski) – Frank Lipski paroled on September 14, 2003. The Court Order was received on January 30, 2004, by the Region-III parole office. Lipski's Controlling Discharge Date (CDD) of September 14, 2006, was credited with the sixty-six (66) days which changed his CDD to July 10, 2006.
3. (Frank Licher) – The Office of the Attorney General is planning to appeal the Court Order. The Deputy Attorney General assigned to the case is requesting a Stay on the Court Order, which was signed by the Judge on May 14, 2004. If the Stay is not granted, the California Men's Colony will comply with the Court Order during the appeal process.
4. (Harold Britton) – Harold Britton attended Institutional Classification Committee on June 4, 2004, where the Classification Committee complied with the Court Order by removing the VIO determinant which had previously prevented Britton from Level-1 placement. The committee lowered Britton's custody designation to Minimum-B, ORWDX. Britton will subsequently be moved to CMC's Minimum Support Facility.
5. (David Tiger) – David Tiger paroled on May 28, 2004. Tiger's Controlling Discharge Date (CDD) of May 12, 2007, was credited with twelve (12) days which changed his CDD to May 1, 2007

June 8, 2004

ATTACHMENT B

Case Name	Case number	Date	Court	Comments
Wayman Lewis Ford v. Duncan	CV 93-3621-DLJ	10/05/1993	USDC NORTH	Ford is challenging his length of his confinement. Morris Lenk, DAG.
Karl Owen Bates v. Duncan	SACV 94-069-GLT(RWR)	03/18/1994	USDC CENTRAL	Petitioner is challenging the legality of his detention. Raquel Gonzales, DAG.
Bradley Lewison v. Duncan	SACV 94-870 LHM (EE)	10/17/1994	USDC CENTRAL	Ineffective assistance of counsel, trial attorney did not advise him of his rights before the trial. Morris Lenk, DAG.
Ralph Coleman v Wilson, et al	CV 90-0520 LKK JFM	09/13/1995	USDC EASTERN	Inmates within CDC who suffer from serious mental disorders are receiving inadequate care and treatment. Jennifer Neill, DAG.
Robin Reynolds v. Duncan	CV 95-3276 FMS	11/06/1995	USDC NORTH	Claims he is being held in unlawful confinement. R. Holzmann, DAG.
David Hensley v. Gomez	CV 95-5728 OWN SMS P	04/23/1996	USDC EASTERN	As of 03-08-2004, case is pending. The Attorney General's office filed Motion To Dismiss on 07-11-2003. Jim Flynn, DAG.
Steven James v. Miller, et al	CV 95-3890	07/19/1996	USDC CENTRAL	Alleges unnecessary and unjustified obstruction of reasonable and effective access to personal legal material, which violates his rights. Cynthia Floyd, DAG.
Luther Kent Evans v. Duncan	CV 96-0873	09/12/1996	USDC CENTRAL	Trial Court's lack of jurisdiction to apply second sentence. Eighth & Fourteenth amendment violated. Morris Lenk. DAG
David Fink v. Eddie Ylst	CV 94-590-JSL	12/27/1996	USDC CENTRAL	Alleges physical and mental abuse. Robert Helfand, DAG.
Gordon Miller v. Duncan	99-0306	05/03/1999	SUP SLO CO	Plaintiff claimed that his was diagnosed with a chronic back disorder and was forced to lift more than 50lbs. Martin Ageson, DAG.
Rosenkrantz, Robert	A810298	05/19/1999	LA CO. SUP	LA Superior Court ordered BPT to set inmate's parole date. Robert Wilson, DAG.
Dean Stockton v Terhune	99-8511	10/06/1999	USDC CENTRAL	Alleges he suffered several injuries and was denied or received inadequate medical attention from 1984-1998 at different institutions constituting cruel and unusual punishment and retaliation by defendants. Robert Helfand, DAG.

Case Name	Case number	Date	Court	Comments
Albert Michail v. State of California	99-0957	12/29/1999	SLO SUPERIOR	Medical malpractice and failure to summon medical care. Christina Arndt, DAG.
Richard Champion v. Bruhn	00-29-NM(E)	01/12/2000	USDC CENTRAL	Alleges that upon arrival at CMC staff confiscated his shaver, black shoe polish, canvas shoes, and black boots. He requests that he be re-issued his boots and is reimbursed for the non-expendable property. Rene Lucaric, DAG.
David Smith v. Duncan	C 00-20261	03/29/2000	USDC NORTH	Petitioner challenges the five-year enhancement of his sentence for a 1980 conviction of robbery. Morris Lenk, DAG.
David Charles Keller v. Faecher	00-0263	04/14/2000	USDC CENTRAL	Plaintiff alleges violation of his constitutional rights regarding the Americans with Disabilities Act (ADA). Alleges lower back pain was not adequately addressed or treated. Michael German, DAG.
Peter Daniel v. R. Harway	CV 00-0287	05/16/2000	SLO SUPERIOR	Medical malpractice and unprofessionalism by a physician. Mark Brown, DAG.
Kenneth Holston v. Clark, Schrem et al	GIC753041	08/21/2000	SAN DIEGO SUPERIOR	I/M alleges defendant's spray painted a bed in the dorm in which he was sleeping causing him intentional infliction of emotional distress and medical chest/lung problems. Michael Cayaban, DAG.
Henry P. Robles v. Duncan	00-1642	08/21/2000	USDC-NORTH	Plaintiff alleges ineffective assistance of counsel, which caused him to pled guilty. M. Lenk, DAG.
Michael J. McKinney v. Peters	CV 97-4448	09/01/2000	USDC CENTRAL	Plaintiff alleges that after safety complaints, staff denied a cell move, and called him a snitch, and on 05-13-96 his cellmate assaulted him. Rochelle Holzmann, DAG.
Robert Vann v. Magana	00-6143	09/01/2000	USDC CENTRAL	Alleges that defendant C/O Magana unjustly denied him the use of the restroom. Intentionally subjected to malicious and oppressive abuse. Jennifer Perkell, DAG.

Case Name	Case number	Date	Court	Comments
Andy Smith v. Van Huss	00-13192	01/26/2001	USDC CENTRAL	Alleges that he was mistreated while being escorted to his Ad-Seg cell. The pushing and pulling from the officers escorting him caused lacerations to his wrist. Jennifer Perkell, DAG.
Stephen Black v. Terhune	99-12108	04/16/2001	USDC CENTRAL	Alleges he was not provided access to a Kosher Food Program. J. Conrad Schroeder, DAG.
John Machado v. Terhune	CV-01-1054-MMM (JWJ)	04/19/2001	USDC CENTRAL	Plaintiff alleges serious medical needs were violated. M. Murphy/M. Santa Romana, DAG.
David Hooker v. Galaza	00-6697	06/11/2001	USDC EASTERN	Plaintiff suffers from chronic migraine headache and was prescribed Naproxyn then Ibuprofen and referred to the neurology clinic for evaluation and treatment. As of 02-09-2004, case is pending. Jeff Phillips, DAG
Norman Felts v. Fenske	010485	06/21/2001	SLO SUPERIOR	Alleges unauthorized violations of plaintiff's psychiatrist/patient privilege by copying documents from plaintiff's confidential psychiatric file into the public domain. Elizabeth Angres, DAG.
Zachary T. Harris v. Duncan	01-2384	07/30/2001	USDC-NORTH	Received ineffective assistance of trial and appellate counsel. Susan Lee, DAG.
Ronald C. Cook v. Hayashi	CV 010575	08/29/2001	SLO SUPERIOR	Alleges that as a direct result of the negligence of the defendants plaintiff has sustained the following injuries and damages. Loss of voice, facial paralysis, burning throat, and general damages. Barbara Noble, DAG.
Bozzie Burton v. Flores	CV 01-4934	09/25/2001	USDC CENTRAL	Alleges denial of due process during disciplinary process re CMC RVR #99-02-0212 resulting in adverse transfer. RVR later dismissed following admin. appeal. Claims mental anguish, emotional distress and psychological pain. Rene Lucaric, DAG
David Charles Keller v Meyers	CV-01-0714	09/25/2001	USDC CENTRAL	Disability not recognized. Made to perform in assignment beyond physical capabilities causing harm. Should have been exempted from assignments under ADA. Nick Paul, DAG

Case Name	Case number	Date	Court	Comments
Matthew Heath v. Cook	CV 01-009983	01/22/2002	USDC CENTRAL	Civil rights complaint contends found guilty of disciplinary for melee based upon erroneous information relating to southern Hispanic gang affiliation. Kept in Ad Seg for year with out privileges. SLO Sup. Court overturned RVR on writ of Habeas Corpus. Wants damages. R. Lucaric, DAG.
Matthew Bowin v. Kephart	CV 02-00349	03/13/2002	USDC CENTRAL	Plaintiff alleges that the lockdown plan instituted by the defendants was racist, malicious and not necessary. Plaintiff's equal protection rights under the 14th amendment to the US constitution were violated. Prior case #CV 01-04464/cv 99-08752. John Bazan, DAG.
John Johnson v. Alameida	CV 02-02109	03/19/2002	USDC CENTRAL	Class action challenging CDC grooming standards, progressive discipline procedure, barbering practices as a health risk. Robert Helfand, DAG.
Satchell Wilkerson v. M. Vargas	CV 01 4285	05/03/2002	USDC CENTRAL	Plaintiff alleges that defendant Vargas subjected him to hostile treatment and discrimination due to his race. Plaintiff claims that because of this, he lost his job in the dental department. Rene Lucaric, DAG.
Jimmy Carter v. Duncan	C 02-0586	05/29/2002	USDC NORTHERN	5-8-02 petitioner filed a 2nd amended complaint with the court claiming prosecution improperly used peremptory challenges to exclude jurors on race and sex orientation and trial court erred by not excusing a juror for cause. Order to show cause dated 5-15-02. S. Lee, DAG.
Ronald Lay v. Forker	CV 02 1680	06/04/2002	USDC CENTRAL	On 1/2/01 plaintiff alleges he was the subject of an unnecessary intrusive body cavity search performed in a humiliating and degrading manner by defendant, Correctional Sergeant, Douglas Forker. Robert Wilson, DAG.
Wayne Benson v. Duncan	C 01-3608	07/02/2002	USDC NORTHERN	Petition challenges trial court's denial for discovery of witness's addresses. Order to show cause why petition should not be granted dated 6.26.02. S. LEE, DAG.

Case Name	Case number	Date	Court	Comments
Phillip Morris Jr. v. Newland	CIV S-00-2794	08/20/2002	USDC EASTERN	Plaintiff claims the rules violation reported dated 12/25/99 for indecent exposure and masturbation is falsified. He claims he was assaulted by staff. On 02-18-2004 motion filed Kelli Hammond, DAG.
Richard Esquivel v. Estelle	CV020375	10/08/2002	SLO SUPERIOR	Retained in Ad-Seg for 11 months. Transfer to San Quentin placing Plaintiff in imminent danger. Plaintiff alleges he was physically and verbally threatened under color of authority. John Bazan, DAG.
Peter Daniel v. Haraway	CV02-6580 RT (SGL)	11/12/2002	USDC CENTRAL	Plaintiff alleges his was permanently and totally disabled prior to incarceration. He was assigned a job where he received injuries to his knee, neck and back. John Bazan, DAG.
Christopher Spencer v. Shampain	CV 02-8384 SVW (FMO)	12/10/2002	USDC CENTRAL	Professional malpractice of dental procedure. Katherine O'Brien, DAG.
Jesse Leon Garrett v. Croxton	CV02-5781-ABC (MAN)	01/21/2003	USDC CENTRAL	Plaintiff alleges his 14th and 18th rights were violated when he was, under threat, forced to take medication not prescribed to him and against his will deeming cruel and unusual punishment. Mark Brown, DAG.
Francisco Contreras v. Brokus	CV 03-40 RT (FMO)	02/19/2003	USDC CENTRAL	Plaintiff alleges he is not gang affiliated. When a riot broke out among rival gangs, he was placed in Ad-Seg for being from the Fresno area. E. Keech, DAG.
Mark Baird v. Alameida	CV 02-6877 PA (SGL)	02/25/2003	USDC CENTRAL	Plaintiff claims CDC has denied him a proper diet for his diabetes. He is requesting DOM Sec.54080.6 be rescinded and that all CDC physicians prescribe outpatient therapeutic diets to himself as well as all diabetic inmates. Rene Lucaric, DAG.
Satchell Wilkerson v. M. Vargas	CV03-1032 RT (PLA)	03/05/2003	USDC CENTRAL	Plaintiff alleges he was removed from his job assignment due to M. Vargas' fabricated allegations of his threats towards her and her racially hostile and discriminative behavior. R. Lucaric, DAG.

Case Name	Case number	Date	Court	Comments
David Ray Tarvin v. Presley	CV 02-06277 VAP (RZ)	03/25/2003	USDC CENTRAL	Plaintiff alleges cruel and unusual punishment. Claims CDC failed to provide inmates with appropriate outpatient therapeutic medical diets. Requests DOM 54080.6 be amended or rescinded to ensure all inmates be given therapeutic diets. John Bazan, DAG.
Edgar Smith on Habeas Corpus	HC 3767 (2)	04/11/2003	SLO SUPERIOR	Petitioner does not agree that re-labeling of the documents in his c-file satisfies his previous habeas where he requested removal of said documents. Barbara Spiegel, DAG.
Robert Burton v. L. Blanks	CV03-00535 VRW	04/15/2003	USDC NORTH	Plaintiff seeks habeas corpus on grounds that he didn't get a fair trial because he had a strong defense of being entrapped and it wasn't presented. Claims he was denied effective assistance of counsel and right to present a defense. Rochelle Holzmann, DAG.
Robert Lee Cantwell, Sr. v. Duncan	C 03-0067	04/15/2003	USDC NORTH	Plaintiff's alleges his rights to adequate medical treatment and applicable standard of health care services have been violated. P. Heheir, DAG.
Stephen F. Snow v. Alameida	C 03 1273 CRB (PR)	07/03/2003	USDC NORTH	Plaintiff alleges denial of access to the courts and opportunity to provide legal assistance to fellow inmates. Claims retaliation, deprivation of legal property, violations of rights to privacy and equal protection. Thomas Patterson, DAG.
Scott Earl Rembert v. M. Parker	CIV F-03-5357 OWW SMS P	08/25/2003	USDC EASTERN	Inadequate health care. M. Chan, DAG.
Raynard Hill v. Gavin	CV 02-9182-GLT (MC)	10/01/2003	USDC CENTRAL	Excessive force by defendant Gavin. Elizabeth Keech, DAG.
Harold Fleming v. Lefevere	CV 03-06199-PA (VBK)	10/09/2003	USDC CENTRAL	Plaintiff was denied treatment for Hep-C condition. G. Michael German, DAG.
James Rohner v. Alameida	CV 03-05267 CJC (MC)	10/09/2003	USDC CENTRAL	Plaintiff was not informed of Hep-C condition at the time diagnosis was made. G. Michael German, DAG.
Eddie Wallace v. Williams	CIV S-03-1572 MCE JFM-P	10/24/2003	USDC EASTERN	Plaintiff alleges he was denied the right to medical treatment and suffered pain daily. Jason Heath, DAG.

Case Name	Case number	Date	Court	Comments
Albert Young v. Bresler	CIV S-03-0951 FCD JFM P	10/29/2003	USDC EASTERN	Plaintiff alleges he was not informed he had Hep-C at the time medical staff diagnosed him. James E. Flynn, DAG.
Sean Clark v. Taylor	CIV S-02-1436 EJG DAD P	11/03/2003	USDC EASTERN	Plaintiff alleges that he was incorrectly diagnosed as testing positive for TB and wishes it to be expunged from his medical file. Jeffrey Phillips, DAG.
Romenion Lamont Elder v. Rosenkrans	CIV S-03-0583 FCD PAN P	11/04/2003	USDC EASTERN	Use of unreliable information to place plaintiff into Administrative Segregation. John w. Riches, DAG.
Gregory Andrew Hall v. Pliier	CIV S-02-0456 MCE KJM P	11/20/2003	USDC EASTERN	Improper treatment, conspiracy, document fraud. Kelli Hammond, DAG.
Joseph Nichols v. Logan	CV 01-1797 L (JFS)	12/02/2003	USDC SOUTHERN	Plaintiff alleges that on 6-30-2000 excessive force was used. He alleges deliberate indifference while housed in Ad Seg at Calipatria State Prison. D. Lepkowsky, DAG.
Chandra Kishor v. Geraghty	CIV S-02-1632 FCD JFM P	12/03/2003	USDC EASTERN	Plaintiff claims that if he had received proper care at time of diagnosis (Churns Disease) the disease would not have spread. Stephen C. Pass, DAG.
Gregorio Funtanilla, Jr. v. Tristan	CIV F-02-6001 OWW TAG P	12/10/2003	USDC EASTERN	2nd amended complaint. Due process procedures were not followed regarding a rules violation report heard by defendant Bloxom. Copy of lawsuit received 2/13/04 for Lt. Bloxom. K. Pollard, DAG.
Mauricio Montano v. Galaza	CIV F 03-5891 REC DLB P	12/30/2003	USDC EASTERN	Plaintiff complains of no access to legal library, no access to exercise yard and must live in a single cell due to him being wheelchair bound. K. Hammond, DAG.
Dannez Hunter v. L. Blanks	CV 03-5249 AHS (ANX)	01/16/2004	USDC SOUTHERN	Plaintiff alleges that based on a sentencing error, imposed by the court, the petitioner did not knowingly, willingly or voluntarily plead to the controlling case. Jonathan Kline, DAG.
James A. Sauers v. Fulmore	CV03-4689 DSF (PLA)	01/22/2004	USDC CENTRAL	Due to plaintiff's allergy to second hand smoke, he requests to remain at CMC Barry Thorpe, DAG.

Case Name	Case number	Date	Court	Comments
Joseph Murl Bennett v. Marshall	CV 03-9613 R(E)	01/22/2004	USDC CENTRAL	Plaintiff received a rules violation report for refusal to take the education TABE test which resulted in loss of good time credits. B. Browne, DAG.
Irvin Tatum v. Piller	CIV S-03-0324 FCD PAN P	02/13/2004	USDC EASTERN	Inmate alleges racial discrimination by implementing policy that places plaintiff on lock-down status for weeks to months at a time. M. Lee, DAG.
David Brinson v. Stockman	CIV F 03-5504 REC SMS P	03/02/2004	USDC EASTERN	Due to plaintiff being retained in Ad Seg, his due process was violated. Defendants violated plaintiff's protected liberty interest according to the California Code of Regulations. G. Fayard, DAG.
Frederick Struck v. Blanks	C 03-3997 THE (PR)	03/05/2004	USDC NORTHERN	Plaintiff alleges a 5 year enhancement to his sentence is double the punishment for one crime. R. Holzmann, DAG.
Edward Thomas v. Lamarque	CV-03-3873 VRW (PR)	03/09/2004	USDC NORTHERN	Use of excessive force, cruel and unusual punishment, assault and battery, confiscation of property, fraudulent allegations lodged against plaintiff, illegal incarceration in Ad-Seg, deliberate indifference to medical needs, denied legal mail. R. Holzmann, DAG.
Mark E. Miller v. Freehauf	CV 09574-DT (VBK)	03/17/2004	USDC CENTRAL	Plaintiff claims as an ADA participant, he was denied a single cell. He alleges that the defendants were intentionally malicious and deliberately indifferent to his medical needs. J. Rittmayer, DAG.
Rafael Lopez v. Lindsey	CV 00-03554 SBA (PR)	03/23/2004	USDC NORTHERN	Plaintiff alleges he was housed in an Ad-Seg cell with one of his enemies. CDC failed to provide for his safety. R. Holzmann, DAG.
Noel Ray Smith v. Blanks	CV-03-07626 SJO (AN)	03/25/2004	USDC CENTRAL	Plaintiff claims the ban on all hardcover books was implemented and enforced in an arbitrary and capricious manner. E. Keech, DAG.
Raymond T. Grimes v. Blanks	CV03-9233 RGK (AJW)	04/09/2004	USDC CENTRAL	Alleges that an inmate with TB was housed in General Population without sufficient warning to other inmates. Cruel and unusual punishment. Barry G. Thorpe, DAG.

Case Name	Case number	Date	Court	Comments
Randy Madrigal v. Alameida	CV 03-9205-CJC (E)	04/14/2004	USDC CENTRAL	Deprivation of adequate exercise, deprivation of outdoor exercise, failure to provide safe and human conditions of confinement in Administrative Segregation. M. German, DAG.
Armando J. Garcia v. Rosario	CIV S-03-2012 FCD KJM P	04/15/2004	USDC EASTERN	Plaintiff alleges staff failed to protect him and failed to follow procedures by allowing rival inmates access to him. G. Fayard, DAG.
William Hodges v. Holder	CV 04-780-RT (MAN)	04/15/2004	USDC CENTRAL	Plaintiff alleges that Sergeant Holder authored a falsified 128-b which resulted in him being placed in the mental health system. G. Seikaly, DAG.
Christopher Oatey v. Director, CDC	CIV S-03-2006 WBS JFM P	04/19/2004	USDC EASTERN	Cruel and unusual punishment. False allegations made by Officer Baillie leading other Correctional Officers to carry out cruel and unusual punishment. S. Lusich, DAG.
Ricky Williams v. Rasgado	CV 04-01238 AHM (SS)	05/06/2004	USDC CENTRAL	Plaintiff claims that while being sprayed with O.C., I/M Ford struck him in the face breaking his jawbone. Plaintiff alleges Correctional Officers were negligent in protecting him from I/M Ford. Plaintiff also claims his due process rights were violated. John Bazan, DAG.
Jaspal Singh v. Marshall	CV 04-2114-GLT (JTL)	05/26/2004	USDC CENTRAL	Plaintiff alleges he has been denied his right to exercise his religious belief. The Sikh religion and CDC grooming standard policy resulted in the issuance of a rules violation report. DAG not yet assigned.

CALIFORNIA CORRECTIONAL INSTITUTION AT TEHACHAPI

P.O. Box 1031
Tehachapi, CA 93581
(661) 822-4402



June 9, 2004

Nettie Sabelhaus
Appointments Director
Senate Rules Committee
State Capitol, Room 420
Sacramento, CA 95814

Dear Ms. Sabelhaus:

SENATE RULES COMMITTEE QUESTIONS

This is in response to the letter dated May 21, 2004, from the Honorable John Burton, Chairman of the Senate Rules Committee, requesting responses to questions provided prior to my confirmation hearing.

The responses to these questions are attached for your review. I look forward to seeing you during the confirmation tour in the near future.

If you have any questions relative to my response or any recommendations as we proceed through the confirmation process, please contact me at Extension 4200 as they would be greatly appreciated. If you would prefer, my e-mail address is william.sullivan@corr.ca.gov.

Sincerely,

A handwritten signature in dark ink, appearing to read "W. J. Sullivan", written in a cursive style.

W. J. SULLIVAN
Warden

ng
Attachments

cc: Mike Neal, Assistant Director, Legislative Liaison
Chris Weaver, Ombudsman, California Department of Corrections

Section 2 – Page 1 of 5

QUESTIONS

SENATE RULES COMMITTEE – WARDEN CONFIRMATION HEARING

STATEMENT OF GOALS

- ◆ *Please provide a statement of goals describing what you hope to accomplish during your service as Warden.*

BUDGET

- ◆ *What steps will you be taking to address projected budget reductions? How will these reductions affect inmate programming, staffing, and health and mental health care of inmates? Are you currently operating within your authorized budget?*

STAFFING

- ◆ *Please provide a list of exiting vacancies and identify the efforts you are making to address long-term vacancies or any other staffing problems, such as in the nursing positions. Please provide information for custody, non-custody, and healthcare positions that identifies positions that have been vacant longer than six months.*
- ◆ *Please provide data on the sick leave usage of all staff for each of the last 12 months, including any data on the use of long-term medical leave.*

PERSONNEL ISSUES AND EMPLOYEE DISCIPLINE

- ◆ *As Warden, what steps have you taken to combat sexual harassment and/or discrimination? Please provide any data regarding pending complaints.*
- ◆ *Please provide data on each employee disciplinary action taken in the last 12 months indicating the staff level of the employee, the alleged misconduct, the results of the investigation, the level of investigation, the results of the investigation (substantiated or not substantiated) and the action taken, if any.*
- ◆ *What criteria do you use to determine whether alleged misconduct warrants a Category I or Category II investigation?*
- ◆ *What criteria do you use to determine the level/severity of discipline imposed?*
- ◆ *How many staff are currently using administrative time off because of pending investigations?*
- ◆ *What have you done to ensure that employees follow both CDC regulations and the law? Have you taken any steps to address what is referred to as the Code of Silence?*

Section 3 – Page 1 of 1
**SENATE RULES COMMITTEE – WARDEN CONFIRMATION HEARING
RESPONSES TO QUESTIONS**

STATEMENT OF GOALS

- ◆ *Please provide a statement of goals describing what you hope to accomplish during your service as Warden.*

My goals as Warden of the California Correctional Institution (CCI) are as follows:

- ❖ To create an environment that will provide each inmate the opportunity to acquire and develop the skills necessary to improve their chances for success upon parole and the assistance necessary for success upon re-entry into the community.
- ❖ To ensure that the inmate population is provided with access to quality medical, dental, and mental health services.
- ❖ To create an environment where staff feel safe at work, and the inmates feel safe taking advantage of all program opportunities available to them.
- ❖ To be a good neighbor to the community and surrounding areas through a safe and secure operation, open communication, and community services that can be provided.
- ❖ To create an environment where staff feel valued, in an effort to ensure that all correctional employees have a stake in re-establishing credibility to their profession.
- ❖ To be fiscally responsible and reflect such in management decisions that meet the needs of staff and inmates without exceeding our budgetary allocation. This can be accomplished through a more collaborative effort between all disciplines within the institution. Additionally, to continue the pursuit of creative and cost-effective ways of providing additional program opportunities to the inmate population.
- ❖ To fully utilize quality assessment processes that will provide CCI with a system of continued improvement. This has resulted in significant improvement in the last two Coleman audits and our most recent Plata review. We are using this process to address the difficulties associated with managing our Ad Seg population, bed utilization, and inmates with SHU terms whose minimum eligible release date has expired. Other areas being addressed through this process are alarm response during shift change and escape prevention.
- ❖ To generate a spirit of cooperation among the staff and inmates to meet a common challenge to solve institution problems.

Section 4 – Page 1 of 1
**SENATE RULES COMMITTEE – WARDEN CONFIRMATION HEARING
RESPONSES TO QUESTIONS**

BUDGET

- ◆ *What steps will you be taking to address projected budget reductions? How will these reductions affect inmate programming, staffing, and health and mental health care of inmates? Are you currently operating within your authorized budget?*

The budget reductions for Fiscal Year 2003/2004 have already occurred. The drills which led to a reduction in staffing have had a minimal affect on the operations at CCI. I have been able to ensure our level of safety and security were maintained with minimal impact to inmate programs.

The inmate programming was affected at our Level IV facilities. The impact only occurs on those nights when self-help groups are conducted; such as Alcoholics Anonymous/Narcotics Anonymous (AA/NA). This activity is conducted in lieu of dayroom, which results in each Housing Unit Section missing approximately two days of their dayroom rotation each month. This reduction has not affected Medical or Mental Health care of inmates.

Every morning Monday through Thursday, I meet with the Resource Review Committee (Chief Deputy Warden, Associate Warden of Business Services, Watch Office Tracking System Analyst, Personnel Assignment Lieutenant, Custody Captain, Business Manager, and Budget Analyst) to review all sick leave/overtime, all emergency vacations, employee requests for job changes, and time off. The Resource Team makes recommendations for viable alternatives, thereby creating savings for the institution. These cost reduction measures utilize our current resources more efficiently and effectively without negatively reducing/impacting the programs of inmates. Furthermore, we strive to promote fiscal responsibility among all staff at CCI, while maintaining a sound foundation for fiscal management in the future.

The current allotment for Program 21 (Custody Non-Medical) is \$131,533,985. The current projection is \$145,167,392, resulting in a deficit of (\$13,633,407). The numerous missions that CCI operates are under funded by \$16,486,002. The appropriate funding for our Administrative Segregation (Ad Seg) Overflow, Youthful Offender Program (YOP) and numerous Federal Time Off Acts/Leaves would result in a surplus of \$2,852,595. Therefore, CCI is recognized as operating within our authorized budget.

Section 5 – Page 1 of 8
SENATE RULES COMMITTEE – WARDEN CONFIRMATION HEARING
RESPONSES TO QUESTIONS

STAFFING

- ♦ *Please provide a list of existing vacancies and identify the efforts you are making to address long-term vacancies or any other staffing problems, such as in the nursing positions. Please provide information for custody, non-custody, and healthcare positions that identifies positions that have been vacant longer than six months.*

TYPE OF VACANCY	NUMBER OF VACANCIES	TOTAL
CUSTODY		8.87
Lieutenant	1.29	
Sergeant	4.00	
Correctional Officer	0	
Counseling	2.00	
Other	1.58	
MEDICAL		31.29
Chief Medical Officer	1.00	
Health Records Technician I	2.07	
Health Records Technician II	1.00	
Medical Technical Assistant	8.95	
Medical Transcriber	1.58	
Pharmacist I	1.00	
Registered Nurse	6.81	
Supervising Registered Nurse	1.00	
Staff Psychologist	3.00	
Senior Psychiatrist	1.00	
Staff Psychiatrist	1.50	
Psychiatric Social Worker	1.00	
Office Assistant/Office Technician	1.38	
EDUCATION/VOCATION		6.00
Supervising Academic Instructor	2.00	
Office Assistant (Bridging)	1.00	
Vocational Instructor (Various)	2.00	
Correctional Counselor II (Bridging)	1.00	
RECORDS		13.00
Office Services Supervisor	3.00	
Office Assistant	8.00	
Program Technician II	2.00	

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TYPE OF VACANCY	NUMBER OF VACANCIES	TOTAL
BUSINESS SERVICES		
		18.4
Material & Stores Supervisor I	3.79	
Material & Stores Supervisor II	1.00	
Clerical	4.00	
Accounting	3.00	
Food Services	1.51	
Personnel	1.10	
Plant Operations	4.00	
ADMINISTRATION		1.00
Correctional Lieutenant (PIO)	1.00	
TOTAL INSTITUTION		78.56
PRISON INDUSTRIES		7.00
Production Manager II	1.00	
Industrial Supervisor (Wood Products)	1.00	
Industrial Supervisor (Upholstery)	1.00	
Prison Industry Supervisor II	1.00	
Industrial Supervisor (Fabric Products)	3.00	
TOTAL PIA		7.00

POSITION #	CLASSIFICATION	RECRUITMENT EFFORTS	FREEZE STATUS	DATE VACANT
CUSTODY				
054-203-9656-003 (.29)	Lieutenant	(Fractional Position) No recruitment needed.	Freeze Exemption	07/30/02
054-203-9656-013	Lieutenant	No recruitment needed.	Pending Deletion	07/01/03
054-203-9656-014 (.1)	Lieutenant	No recruitment needed.	Pending Deletion	07/01/03
054-201-9656-010	Lieutenant	Interviews scheduled.	Freeze Exemption - Limited Term	05/17/04
054-203-9659-002 (.28)	Sergeant	No recruitment needed.	Pending Deletion	04/01/03

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POSITION #	CLASSIFICATION	RECRUITMENT EFFORTS	FREEZE STATUS	DATE VACANT
054-204-9659-013 (.69)	Sergeant	Interviews scheduled for 06/08/04	Freeze Exemption - Limited Term	070/1/03
054-207-9659-010	Sergeant	No recruitment needed.	Pending Deletion	10/03/03
054-207-9659-013	Sergeant	Interviews scheduled for 06/08/04	Freeze Exemption - Limited Term	04/01/04
054-208-9659-006	Sergeant	Interviews scheduled for 06/08/04	Freeze Exemption - Limited Term	05/10/04
054-222-9901-004	Corr. Counselor II Specialist	Interviews scheduled for 06/02/04	Freeze Exemption – Limited Term	04/30/04
054-222-9902-001	Corr. Counselor III	Final Filing 06/04/04	Freeze Exemption – Limited Term	05/16/04
054-201-1139-002 (.58)	Office Technician	Interviews scheduled for 05/27/04	Freeze Exemption Plata	01/01/04
054-201-5157-002	Staff Services Analyst	Pending 607 for T&D	Exempt	04/19/04
MEDICAL				
054-213-7547-001	Chief Medical Officer	Reg. Admin. HCSD scheduling interview with potential candidates	Exempt Medical	03/02/02
054-213-1869-006	Health Records Tech I	Commitment made	Exempt Medical	01/12/04
054-213-1869-009	Health Records Tech I	Commitment made	Exempt Plata	01/01/04
054-213-1869-011 (.07)	Health Records Tech I	Pending reclass to OT Interviews 06/10/04	Exempt Plata	01/01/04
054-213-1887-002	Health Records Tech II, Supervisor	Delegated Exam 06/04/04	Exempt Plata	01/01/04
054-213-8217-005	Medical Technical Assistant	Office of Selections and Standards (OSS) Recruits	Exempt Medical	03/04/04
054-213-8217-035	Medical Technical Assistant	Lateral Candidate 06/01/04	Exempt Medical	01/01/04

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POSITION #	CLASSIFICATION	RECRUITMENT EFFORTS	FREEZE STATUS	DATE VACANT
054-213-8217-036	Medical Technical Assistant	OSS Recruits	Exempt Medical	01/01/04
054-213-8217-037	Medical Technical Assistant	OSS Recruits	Exempt Medical	01/01/04
054-213-8217-038	Medical Technical Assistant	OSS Recruits	Exempt Medical	01/01/04
054-213-8217-039	Medical Technical Assistant	OSS Recruits	Exempt Medical	01/01/04
054-213-8217-040	Medical Technical Assistant	OSS Recruits	Exempt Medical	01/01/04
054-213-8217-041	Medical Technical Assistant	OSS Recruits	Exempt Medical	01/01/04
054-213-8217-017 (.95)	Medical Technical Assistant	OSS Recruits	Exempt Medical	07/30/02
054-213-1177-001	Medical Transcriber	OSS Recruits 06/01/04	Exempt Plata	01/01/04
054-213-1177-002 (.58)	Medical Transcriber	Pending reclass to OT interviews 06/10/04	Exempt Plata	01/01/04
054-213-7982-002	Pharmacist I	OSS Recruits as of 06/01/04	Exempt Medical	05/01/04
054-213-9275-002	Registered Nurse	Commitment made	Exempt Medical	01/01/04
054-213-9275-003	Registered Nurse	OSS Recruits as of 06/01/04	Exempt Medical	03/05/04
054-213-9275-010	Registered Nurse	OSS Recruits as of 06/01/04	Exempt Medical	05/17/04
054-213-9275-014 (.81)	Registered Nurse	OSS Recruits as of 06/01/04	Exempt Medical	05/17/04
054-213-9275-035	Registered Nurse	OSS Recruits as of 06/01/04	Exempt Plata	01/01/04
054-213-9275-036	Registered Nurse	Commitment made	Exempt Plata	01/01/04
054-213-9275-037	Registered Nurse	Commitment made	Exempt Plata	01/01/04
054-213-9275-028	Registered Nurse	No other candidates to OSS 06/01/04	Exempt Plata	03/02/03
054-213-9318-001	Supervising Registered Nurse II	Commitment made	Exempt Medical	02/23/04
054-220-1379-004 (.1)	Office Assistant	Pending reclass to OT interviews 6/10/04	Exempt Medical	08/30/02

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POSITION #	CLASSIFICATION	RECRUITMENT EFFORTS	FREEZE STATUS	DATE VACANT
054-213-1139-011 (.28)	Office Technician	Interviews 06/10/04	Exempt Plata	01/01/04
054-213-1379-001	Office Assistant	Interviews 06/8-9-10/04	Exempt Laterals Only	05/18/04
054-220-9272-001	Staff Psychiatrist	OSS Recruits as of 06/01/04	Exempt Medical	6/30/03
054-220-9272-005 (.5)	Staff Psychiatrist	OSS Recruits as of 06/01/04	Exempt Medical	02/1/03
054-220-9271-003	Sr. Psychiatrist	OSS Recruits as of 06/01/04	Exempt Medical	04/15/04
054-220-9283-010	Psychologist	OOS Recruits 06/01/04	Exempt Medical	05/01/04
054-220-9283-015	Psychologist	OSS Recruits 06/01/09	Exempt Medical	02/02/04
054-220-9283-018	Psychologist	OSS Recruits as of 06/01/04	Exempt Medical	01/31/03
054-220-9282-002 (.5)	Psychiatric Social Worker	OSS Recruits 06/01/04	Exempt Medical	04/02/04
054-220-9282-004 (.5)	Psychiatric Social Worker	OSS Recruits 06/01/04	Exempt Medical	04/02/04
EDUCATION/VOCATION				
054-231-2305-003	Sup. Academic Inst.	Hire date 06/28/04.	Laterals Exempt	07/03/03
054-232-2668-001	V.I. Ref & Air Cond Rpr	Reclass to VI Printing & Graphic Arts Recruitment to begin 06/07/04	Laterals Exempt	07/01/03
054-232-2851-001	V.I. Small Eng. Repair	Recruitment to begin 06/07/04	Laterals Exempt	07/01/03
054-234-2305-001	Sup. Academic Inst. (Bridging Program)	Hire date 06/28/04.	Exempt Bridging	11/01/03
054-232-2851-001	V.I. Small Eng. Repair	Recruitment to begin 06/14/04	Laterals Exempt	07/01/03
054-299-9903-001	Corr. Counselor II, Supervisor	Interviews 06/02/04	Exempt Bridging	01/01/04
054-223-9928-001	Program Technician II	Interviews 06/07/04	Freeze Exemption	02/08/04
054-223-9928-005	Program Technician II	Interviews 06/07/04	Freeze Exemption	12/19/03

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POSITION #	CLASSIFICATION	RECRUITMENT EFFORTS	FREEZE STATUS	DATE VACANT
054-223-1141-004	Office Services Supv. I	Request to reclass.	Freeze Exemption	02/23/04
054-223-1379-003	Office Assistant (T)	Interviews 06/8-9-10/04	Lat. only until 07/01/04	01/30/04
054-223-1379-006	Office Assistant (T)	Interviews 06/8-9-10/04	Lat. only until 07/01/04	05/16/04
054-223-1379-010	Office Assistant (T)	Interviews 06/8-9-10/04	Lat. only until 07/01/04	06/06/04
054-223-1379-012	Office Assistant (T)	Interviews 06/8-9-10/04	Lat. only until 07/01/04	01/22/04
054-223-1379-023	Office Assistant (T)	Interviews 06/8-9-10/04	Lat. only until 07/01/04	04/08/04
054-223-1379-028	Office Assistant (T)	Interviews 06/8-9-10/04	Lat. only until 07/01/04	05/20/04
054-223-1379-031	Office Assistant (T)	Interviews 06/8-9-10/04	Lat. only until 07/01/04	05/31/04
054-296-1379-001	Office Assistant	Interviews 06/8-9-10/04	Exempt Bridging	05/17/04
RECORDS				
054-223-1141-001	Office Services Supervisor I	Interviews 06/07/04	Freeze Exemption	09/15/03
054-223-1141-003	Office Services Supervisor I (G)	Request Del. Test	Freeze Exemption	07/24/03
BUSINESS SERVICES				
054-211-2183-020	Supervising Cook I	2 recruitments. New final filing date of 06/16/04	Freeze Exemption LT	07/14/03
054-211-2183-022 (.51)	Supervising Cook I	2 recruitments. New final filing date 06/16/05	Freeze Exemption LT	07/01/03
054-261-4563-001	Accounting Officer Supervisor	Interviews 06/17/04	Laterals Exempt	04/02/04
054-261-1139-001	Office Technician	Pending 607 for T&D	Exempt	04/12/04
054-261-1139-807	Office Technician	Recruitment 06/14/04	Laterals Exempt	03/02/04
054-261-1379-802	Office Assistant	Interviews 05/25/04	Laterals Exempt	04/12/04

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POSITION #	CLASSIFICATION	RECRUITMENT EFFORTS	FREEZE STATUS	DATE VACANT
054-261-1379-809	Office Assistant	Recruitment 06/14/04	Laterals Exempt	05/05/04
054-800-1733-001	Account Clerk II	Interviews 06/03/04	Lateral and T&D Exempt	05/17/04
054-800-1741-002	Accounting Technician	Interviews 06/17/04	Lateral and T&D Exempt	05/01/04
054-261-1317-001	Senior Personnel Specialist	Candidate offered job.	Lateral Exempt	04/17/04
054-223-1379-032	Office Assistant (T)	Interviews 06/8-9-10/04	Laterals only until 7/01/04	07/01/03
054-261-1508-009	Material & Stores Supervisor I	Interviews 06/11&14/04	Pending Freeze Exemption	04/01/04
054-261-1508-010	Material & Stores Supervisor I	Interviews 06/11&14/04	Pending Freeze Exemption	04/01/04
054-261-1508-011	Material & Stores Supervisor I	Interviews 06/11&14/04	Pending Freeze Exemption	04/01/04
054-261-1508-012 (.79)	Material & Stores Supervisor I	Interviews 06/11&14/04	Pending Freeze Exemption	04/01/04
054-261-1505-003	Material & Stores Supervisor II	Recruitment begins 06/14/04	Lateral Exemption	03/15/04
054-261-1303-007 (.10)	Personnel Specialist	No recruitment needed.	Freeze Exemption	07/01/03
054-216-6713-003	Stationary Engineer	Interviews 06/04/04	Limited Term Exemption	04/18/04
054-216-6713-011	Stationary Engineer	Interviews 06/04/04	Limited Term Exemption	05/01/04
054-216-6713-014	Stationary Engineer	Interviews 06/04/04	Limited Term Exemption	02/01/04
054-216-7199-002	Pest Control Technician	Pending interviews	Lateral Exemption	01/08/04

Section 5 – Page 8 of 8

- ♦ Please provide data on the sick leave usage of all staff for each of the last 12 months, including any data on the use of long-term medical leave.

	MAY	JUNE	JULY	AUG	SEPT	OCT	NOV	DEC	JAN	FEB	MAR	APR	TOTAL
	2003	2003	2003	2003	2003	2003	2003	2003	2004	2004	2004	2004	
CUSTODY													
Officers	12,710	12,330	12,228	13,436	10,848	12,195	12,501	14,120	10,841	11,702	12,286	13,868	149,063
Sergeants	1,383	1,257	1,296	920	891	1,018	1,077	1,136	843	743	1,010	862	12,432
Lieutenants	233	226	337	332	265	358	386	378	329	214	136	338	3,530
Other Custody	210	128	88	132	202	220	125	279	282	276	305	240	2,485
NON-CUSTODY													
Food Services	302	176	253	176	111	467	547	240	290	298	286	235	3,378
Clothing	4	0	1	5	0	10	18	20	0	0	25	25	107
Plant Operations	549	513	373	631	534	618	443	591	391	539	479	584	6,245
Records	599	496	729	730	595	435	502	599	580	484	501	592	6,840
REC/PE	0	18	16	30	34	22	16	10	42	83	66	40	376
Religion	16	16	16	10	0	0	0	8	72	10	0	0	148
Academic	256	238	211	248	363	363	451	406	420	405	485	433	4,279
Vocational	159	151	321	273	142	130	139	254	194	104	94	114	2,075
Administrative	509	316	646	494	519	513	545	896	845	944	654	434	7,315
Counselors	352	742	613	438	542	662	441	373	269	239	351	417	5,438
Trust	41	52	26	14	7	9	26	76	24	43	33	27	375
IWF	39	24	11	47	28	38	28	67	43	72	53	58	504
MEDICAL													
Medical	844	535	442	540	488	494	593	1,081	894	1,077	1,260	818	9,066
Dental	32	26	12	42	88	215	106	121	32	88	60	55	876
Mental Health	506	213	220	281	155	435	588	448	307	207	384	391	4,133
TOTAL	18,741	17,454	17,837	18,777	15,810	18,200	18,528	21,100	16,696	17,526	18,465	19,529	218,663
LONG-TERM SICK LEAVE FOR ALL STAFF													
	4,146	3,441	4,066	3,709	2,482	3,290	2,688	3,613	1,554	1,908	2,399	2,028	35,323

*May totals will not be available until July 1, 2004.

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SENATE RULES COMMITTEE – WARDEN CONFIRMATION HEARING
RESPONSES TO QUESTIONS

PERSONNEL ISSUES AND EMPLOYEE DISCIPLINE

- ♦ *As Warden, what steps have you taken to combat sexual harassment and/or discrimination? Please provide any data regarding pending complaints.*

As a Warden, I believe I must act in a manner consistent with Departmental Policy relative to Equal Employment Opportunity. I maintain this expectation of the Management Team and Supervisors. This expectation is discussed at staff meetings, reinforced in supervisory meetings and is presented to new employees during orientation and at Labor Management Meetings.

My expectation is that all persons be treated with respect, dignity, and professionalism, and in a courteous and fair manner. Policies are in place enforcing the prohibition of discriminatory and unprofessional behavior. I have taken steps working with the Equal Employment Opportunity (EEO) Coordinator to enhance prevention strategies that are already practiced by CCI employees.

The following are steps I have taken to combat sexual harassment and discrimination in the workplace:

- ❖ Ensure all Managers reflect positive role models for all staff.
- ❖ Taking immediate and appropriate action when presented with an issue of harassment, discrimination, or retaliation to stop conduct that violates EEO and Sexual Harassment policies and laws.
- ❖ The monthly In-Service Training Bulletin contains the names, locations, and contact phone numbers of EEO Counselors throughout the institution.
- ❖ Sexual harassment and EEO training is provided to all new employees during orientation.
- ❖ Annual training is provided to all staff (custody and non-custody).
- ❖ Recently increased the number of EEO Counselors to 28 and have allocated a full-time Staff Services Analyst to assist my EEO Coordinator. The additional staffing has resulted in more staff complaints being resolved at a lower level, more timely assignment of an EEO Counselor, and more expedient responses and resolutions to problems.
- ❖ I conduct a monthly meeting with EEO Coordinator, Investigative Services Unit (ISU) Supervisor, and ERO Manager to discuss progress and any concerns, trends, and issues that arise.
- ❖ Special training was provided in May 2004 for all EEO Counselors.

There have been 78 EEO complaints filed since May 2002. Of those, 66 have been resolved and 12 remain open:

- ❖ 9 – Under investigation by the Department's Office of Civil Rights.
- ❖ 1 – Under review by the Department of Fair Employment and Housing.
- ❖ 2 – Pending informal resolution.

During this time period, 80 inquiries made to the EEO Coordinator did not meet the EEO criteria.

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The following are a few examples from the 80 inquiries that are reflective of the cases that have been screened out as not meeting EEO criteria. The staff names and dates of occurrence are not provided for the sake of confidentiality.

- ❖ An employee complained that another employee was pressuring her to provide him with questions for an upcoming promotional interview. This was not an EEO issue and was referred to ISU for follow up.
- ❖ An employee complained that a supervisor should not have written her a Letter of Contact. There was no nexus or basis to the complaint. It was referred to the Unit Lieutenant for resolution.
- ❖ An employee complained that another employee might spread rumors about him due to a past marital relationship. No harm or rumors had been spread. This did not meet EEO criteria and the employee was advised to contact the EEO Coordinator again if issues arose. This has not occurred.
- ❖ Two employees both complained that their supervisor came to their work site and observed them while on duty. The supervisor also criticized their work and did not allow the employees to work together all the time. This was a supervisory issue and was referred to the area Supervisor for resolution. No further complaints have arisen.
- ❖ An employee complained that another employee made a hand signal toward him indicating an "L." The employee felt this disparaged his integrity as he believed it meant he was a "lop" or "Loser." There was no basis for this complaint and it was referred to and resolved by the Unit Lieutenant.
- ◆ *Please provide data on each employee disciplinary action taken in the last 12 months indicating the staff level of the employee, the alleged misconduct, the results of the investigation, the level of investigation, the results of the investigation (substantiated or not substantiated) and the action taken, if any.*

June 2003 through May 2004

STAFF LEVEL	CATEGORY	SUSTAINED CHARGE	DISCIPLINARY ACTION
Sergeant	I	Driving Under the Influence, Violation of Law, Conduct Unbecoming an Officer	Letter of Instruction
Correctional Officer	I	Discourteous Treatment, Conduct Unbecoming an Officer, Dishonesty, Battery, Harassment	Letter of Instruction

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STAFF LEVEL	CATEGORY	SUSTAINED CHARGE	DISCIPLINARY ACTION
Correctional Officer	I	Driving Under the Influence, Conduct Unbecoming an Officer, Violation of Law	5% for 6 months
Radiology Technician	II	Employee Conduct, Transactions, Familiarity, Employee and Inmate/ Parolee Relations	Resigned
Material and Stores Supervisor I	II	Over familiarity	Resigned
Correctional Counselor I	I	Disturbing the Peace	Letter of Instruction
Correctional Officer	I	Over familiarity	Dismissal
Correctional Officer	I	Driving Under the Influence, Violation of Law, Conduct Unbecoming an Officer	Letter of Reprimand
Correctional Officer	I	Driving Under the Influence, Reckless Driving	Letter of Instruction
Correctional Officer	I	Driving Under the Influence	Letter of Instruction
Office Technician	II	Threats, Discourteous Treatment	5% for 12 months
Plumber II	II	Discourteous Treatment, Employee Conduct	Letter of Instruction
Correctional Officer	I	Discourteous Treatment	Letter of Instruction
Correctional Officer	II	Child Molestation	Resigned
Correctional Officer	I	Dishonesty, Falsification of State Documents, Insubordination	5% for 6 months
Correctional Officer	I	Driving Under the Influence, Violation of Law, Conduct Unbecoming an Officer	Letter of Reprimand
Academic Teacher	I	Discourteous Treatment	5% for 3 months

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- ◆ *What criteria do you use to determine whether alleged misconduct warrants a Category I or Category II investigation?*

The criteria used to determine whether alleged misconduct warrants a Category I or Category II investigation is set forth in Department Operations Manual, Sections 31140.6.1 and 31140.6.2. Category I misconduct is usually less serious employee misconduct and is within the normal scope of employee supervision. If there is any ambiguity as to whether an investigation should be a Category I or Category II, contact is made with the Office of Internal Affairs-Central Region and their advice is requested regarding which category to assign.

Investigations are generally classified as Category I when the allegations involve the following:

- ❖ Neglect of duty.
- ❖ Abuse of sick leave/Failure to report for duty.
- ❖ Punctuality/Tardiness.
- ❖ Disobedience/Insubordination.
- ❖ Lack of alertness on the job.
- ❖ Undue familiarity with an inmate within the institution, or with a parolee or an inmate's or parolee's family or friends.
- ❖ Security violations of a less serious nature.
- ❖ Misuse of State property.
- ❖ Filing a false report in the course of duty.
- ❖ Driving under the influence of alcohol.
- ❖ Other cases as determined by the Hiring Authority and Regional Special Agent-In-Charge.

Category II misconduct is serious employee misconduct and is outside the normal scope of employee supervision and considered more serious, or of wider scope, than a Category I inquiry. Investigations are generally classified as Category II when the allegations involve the following:

- ❖ Felonious conduct.
- ❖ Misdemeanor law violations.
- ❖ Multi-jurisdictional interest.
- ❖ Wide media interest.
- ❖ Departmental employees with non-employees.
- ❖ Multiple employees.
- ❖ High-ranking employees.
- ❖ More than one department or agency.
- ❖ Serious improper employee association with an inmate, parolee, or an inmate's or parolee's family or friends.
- ❖ Conduct involving moral turpitude or which brings discredit to the Department.
- ❖ Spousal abuse, including violation of restraining orders, harassing conduct, etc.
- ❖ Misuse of State property, including theft of State property.
- ❖ Misuse of Peace Officer authority or privilege.
- ❖ Excessive force on an inmate involving injury or unusual circumstances.

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- ❖ Dishonesty in reporting incidents involving misconduct, when such dishonesty undermines the integrity of departmental operations or discredits the Department (i.e., Code of Silence).
- ❖ Employee association with prison gangs, gang members, or families of gang members.
- ❖ Narcotic/contraband smuggling.

Anytime an investigation requires specialized equipment or expertise, off-reservation surveillance, or preparation of service of Search Warrants, it will be categorized as a Category II investigation.

- ◆ *What criteria do you use to determine the level/severity of discipline imposed?*

After reviewing the complete investigation, all information is forwarded to Personnel Operations to get comparable actions for similar misconduct. This establishes parameters for us to consider. Prior to imposing discipline, an evaluation of the circumstances, including the following, are considered: If the employee's misconduct was of a continuing nature or the instance was particularly egregious; rules or laws violated; litigation considerations; likelihood of reoccurrence; and harm to the State. Additionally, I will look at prior history of Adverse Actions, Commendations, work performance, and length of service. I will also evaluate the level of responsibility the employee accepts for his/her actions.

- ◆ *How many staff are currently using administrative time off because of pending investigations?*

As of June 9, 2004, one employee is on Administrative Time Off.

- ◆ *What have you done to ensure that employees follow both CDC regulations and the law? Have you taken any steps to address what is referred to as the Code of Silence?*

On-the-Job Training (OJT) and expectations with regard to the Code of Silence have been provided to all staff to include Management, as well as First and Second Line Supervisors. Informative notices have been published in the In-Service Training Bulletin and attached to paychecks for all employees. Additionally, line staff were given documented OJT by managers on each facility.

Staff are expected to maintain a professional demeanor while at the work site and to adhere to California Department of Corrections (CDC) Rules and Regulations. The goal is to ensure that the staff at CCI are the best in the Department, through training, motivation, and effective and meaningful communication.

Staff are provided training through the In-Service Training Department and at the work site through daily supervisory contact and OJT. Once training has been provided, staff are monitored by their supervisors to ensure compliance with CDC policies and procedures. When staff do not meet the expected standards, they are provided with additional training or corrective action, if warranted. If an employee continues to exhibit behavior or work performance that does not meet the expected standards, the progressive disciplinary process is utilized.

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**SENATE RULES COMMITTEE – WARDEN CONFIRMATION HEARING
 RESPONSES TO QUESTIONS**

INMATE RELATIONS

- ♦ *What problems are you experiencing regarding inmate violence at your institution? How are you responding to those problems, especially in terms of violence reduction strategies?*

At CCI, we have experienced staff assaults to varying degrees. These assaults typically occur spontaneously and are usually unexpected by staff. Training has been provided to staff on relations with inmates, and policies are reviewed to ensure consistency between facilities and watches. This will reduce the assaults related to inconsistent operations and enforcement of procedures.

We have also experienced inmate batteries and riots between races and disruptive groups. These are normally related to drugs and debts resulting from trafficking of narcotics.

To reduce violence, staff continually monitor and report inmate behavior. Validated gang members routinely attempt to control activity in the General Population (GP). Acts of violence are usually sanctioned or directed by gang leaders and frequently involve drugs or alcohol sales or use.

The Institutional Gang Investigator monitors inmates who choose to participate in gang activity. Those inmates identified to be participating in gang activity are removed from the GP. Prison Gangs are those gangs identified to have their roots within a prison setting. Inmates identified as members or associates of Prison Gangs are placed in the Security Housing Unit (SHU).

CCI houses members and associates of the following Prison Gangs within its SHU:

PRISON GANG	TOTAL
Mexican Mafia	67
Aryan Brotherhood	3
Nazi Low Rider	15
Black Guerrilla Family*	13
Northern Structure	10
Nuestra Familia	2
TOTAL	110

*Inmates have been deemed appropriate for GP housing by the Departmental Review Board.

Disruptive Groups are those gangs identified to have roots outside of the prison setting. Inmates identified as members and associates of Disruptive Groups are eligible to be housed within the GP Units.

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CCI houses approximately 176 validated members of Disruptive Groups. Disruptive Groups include pre-cursor gangs whose development could impact the inmate population (i.e., Street Gangs, Motorcycle Gangs, and Revolutionary Groups).

Staff take a proactive approach to curbing violence by identifying potential victims and relocating them to another GP Unit; identifying inmates engaged in predatory behavior and transferring them to a more secure environment or SHU; using intelligence gathering and relationship building to diplomatically intervene and avoid violence. Staff conducts threat assessments in an attempt to reduce the likelihood of recurring violence. All staff are tasked with collecting information with the goal of predicting and preventing inmate violence. This assists CCI in providing an environment that allows inmates who want to program the best opportunity to do so.

Staff are proactive in conducting searches for alcohol, drugs, and other intoxicants. Strict attempts are made to control inmate access to materials that can be used to produce alcohol, such as excess fruit, sugar products, and products containing yeast.

CCI has placed into effect programs that can help reduce violence. Many programs are afforded to inmates to teach them to manage their anger and prevent violent outbursts that impact inmate programs. Religious programs, the special programs and volunteers they employ are utilized to the fullest extent in assisting inmates to deal with personal issues before they manifest themselves in violence.

Anger Management Therapy, offered through the Mental Health Program, focuses on helping inmates learn to deal with anger. Parenting classes, under the direction of the Friends Outside Coordinator, offers parenting education designed to meet the unique needs and concerns of the inmates. These courses meet the court ordered parenting class requirements.

Programs such as the Disability Placement Program, Developmental Disability Placement Program, AA/NA, and Substance Abuse Programs assist qualifying inmates with their programming needs, which can further reduce violence in the prison setting. The Classification process is used to create an avenue for staff to identify aggressive predatory behavior and place identified inmates in a suitable setting consistent with their case factors.

- ◆ *Please provide data on the number of formal and informal 602s, custody and medical, filed by inmates, by yard, in the last 12 months and the time to respond to those appeals. Do you have data on how many 602s have been "screened out?"*

Informal CDC 602

Informal Appeals are not tracked by the Appeals Office at CCI, therefore, no data can be presented.

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Formal CDC 602

The following is a breakdown of the Inmate Appeals that were received in the Appeals Office during the time period of June 1, 2003, through May 31, 2004. Some of these appeals may not have yet been responded to. The received appeals are displayed by unit and category.

CATEGORY	UNIT I	UNIT II	UNIT IV/RC	UNIT IVA	UNIT IVB	OTHER INSTITUTION
Disciplinary	93	96	21	115	112	9
Custody/Classification	20	31	6	46	50	3
Mail	14	5	7	46	52	2
Visiting	8	8	1	19	5	0
Property	17	27	12	125	76	53
Case Information/Records	25	42	11	54	59	3
Staff Complaint	51	63	52	186	133	12
Medical	77	69	49	82	109	5
Living Condition	10	11	12	62	58	2
Legal	11	3	7	10	32	0
Program	4	238	5	33	20	2
Segregation	0	7	3	23	27	1
Work Incentive	33	19	1	9	4	1
Transfer	5	7	6	23	27	0
Re-Entry Parole	3	0	0	0	0	0
Funds	32	31	9	65	61	40
ADA	54	94	61	14	21	5

Estimated Average Timeframe for Response of Custody Inmate Appeals

June 2003 through May 2004

(listed in *business days*)

CATEGORY	UNIT I	UNIT II	UNIT IV/RC	UNIT IVA	UNIT IVB	AVERAGE
First Level	20 days	19 days	24 days	14 days	27 days	21 days
Second Level	19 days	17 days	14 days	16 days	16 days	16 days

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Current Overdue Custody Appeals

	CUSTODY APPEALS
First Level Appeals	7
Second Level Appeals	7
ADA	0

The custody issues are separated into 16 categories. The following table reflects only appeals with completed responses that were received from June 1, 2003, through May 31, 2004. The table does not include appeals that were cancelled, withdrawn, or screened out after being assigned a log number.

June 1, 2003, through May 31, 2004

CATEGORY	GRANTED			PARTIALLY GRANTED			DENIED		
	1 ST Level	2 ND Level	Total	1 ST Level	2 ND Level	Total	1 ST Level	2 ND Level	Total
Disciplinary	2	35	37	0	85	85	1	295	296
Custody/Classification	8	18	26	4	18	22	9	75	84
Mail	23	2	25	25	11	36	40	23	63
Visiting	3	1	4	8	2	10	10	6	16
Property	74	15	89	29	15	44	115	73	188
Case/Info/Records	18	15	33	20	20	40	71	63	134
Staff Complaints	3	13	26	27	63	90	42	267	309
Medical	104	14	118	154	77	231	68	35	103
Living Conditions	36	13	49	12	12	24	58	38	96
Legal	16	2	18	20	17	37	29	25	54
Program	8	7	15	4	6	10	22	263	285
Segregation	2	4	6	1	9	10	10	27	37
Work Incentive	7	0	7	10	4	14	12	16	28
Re-Entry	0	0	0	0	0	0	0	1	1
Transfer	4	10	14	8	13	21	8	22	30
Funds	108	17	125	28	11	39	61	37	98
ADA	42	5	47	83	13	96	77	18	95
TOTAL	458	171	639	433	376	809	633	1284	2808

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Screen-Out of CDC 602

There were a total of 4,007 appeals screened out from June 1, 2003, to May 31, 2004. The majority of these appeals were screened out due to missing documents or missing information. Approximately 90 to 95 % of the screened out appeals are returned to the Appeals Office for further processing after they are corrected or missing documents added. The number of screened out appeals may appear to be high. It should be noted that many of the appeals are screened out multiple times due to Appellant failing to correct all issues before resubmitting. Each time a screened out appeal is resubmitted and screened out again, it is again tallied in the totals for the year for screened out appeals. It is not uncommon for an appeal to be screened out three or four times before it is correct and accepted for processing. Once the appeal is correct, regardless of how many times it was screened out, it is accepted and is processed.

Response Time Limits for CDC 602

Time frames are established in California Code of Regulations (CCR), Title 15, Section 3084, to respond to a CDC 602: Informal Level shall be completed within 10 working days; First Level shall be completed within 30 working days; Second Level shall be completed within 20 working days or 30 working days if the First Level is waived pursuant to Section 3084.5(1)(3); and Third Level shall be completed within 60 working days.

Medical Appeals

Medical issues are separated into 24 categories.

June 1, 2003 through May 31, 2004

CATEGORY	GRANTED			PARTIALLY GRANTED			DENIED		
	1ST Level	2nd Level	Total	1ST Level	2nd Level	Total	1ST Level	2nd Level	Total
Access to Care	20	6	26	43	65	108	14	7	21
ADA **	27	0	27	45	10	55	30	6	36
Administrative	1	1	2	1	8	9	1	0	1
Cell / Bunk Placement	0	0	0	0	0	0	0	0	0
Chrono Issues	2	0	2	0	0	0	0	4	4
Copay	28	0	28	10	5	15	4	14	18
Dental	1	0	1	3	6	9	0	0	0
Device Issues	6	2	8	3	0	3	0	0	0
Disagreement with Treatment	13	2	15	37	33	70	13	35	48
Lab	0	0	0	0	0	0	0	0	0
Medical Record Issues	13	0	13	2	2	4	2	2	4
Medically Unassigned	0	0	0	0	0	0	0	0	0
Medication	14	0	14	24	6	30	8	0	8

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CATEGORY	GRANTED			PARTIALLY GRANTED			DENIED		
	1st Level	2nd Level	Total	1st Level	2nd Level	Total	1st Level	2nd Level	Total
Mental Health	1	0	1	3	3	6	4	0	4
Other	0	0	0	0	3	3	0	0	0
Pharmacy	0	0	0	0	0	0	0	0	0
Radiology	0	0	0	0	0	0	0	0	0
Referral	0	0	0	2	1	3	0	0	0
Soft Shoes	0	0	0	0	0	0	0	0	0
Special Diet	1	0	1	0	0	0	0	0	0
Staff Complaint	0	0	0	2	0	2	5	22	27
Supplies	2	2	4	0	2	2	0	0	0
Surgical Issues	0	0	0	0	0	0	2	0	2
Transfers	0	0	0	0	0	0	1	0	1
TOTAL	129	13	142	175	144	319	84	90	174
GRAND TOTAL	635								

Uncompleted, canceled, withdrawn, or screened out duplicate appeals are not included in the above table.

There were 43 ADA appeals (not reflected above) in which the Medical Department verified the appellant's physical condition. The appeal was then referred to the custody appeals office for completion.

Estimated Average Timeframe for Response of Medical Inmate Appeals

June 2003 through May 2004

(listed in business days)

ISSUE	UNIT I	UNIT II	UNIT IV/RC	UNIT IVA	UNIT IVB	AVERAGE
First Level	22 days	23 days	23 days	24 days	23 days	23 days
Second Level	18 days	16 days	19 days	25 days	19 days	19 days

Current Overdue Medical Appeals

	MEDICAL APPEALS
First Level Appeals	2
Second Level Appeals	0
ADA	0

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- ◆ *How many lockdowns have occurred at your institution in the past year? Please indicate the duration, specific unit location, the approximate number of inmates involved, and the reason. What is your policy with regard to lockdowns and the extent to which they have the least impact on uninvolved inmates?*

UNIT I

DATE OF INCIDENT	INCIDENT TYPE	# OF INMATES AFFECTED	DURATION (DAYS)
07-02-03	Battery / Grouping	1230	5
07-29-03	Racial Fight	38	6
08-06-03	Battery on Inmate w/Injury	1218	5
08-10-03	Battery / Racial Tension	827	4
10-24-03	Suspected TB	1214	16
11-20-03	Racial Grouping	887	1
01-14-04	Investigation into Drug Trafficking	1225	7
01-21-04	Chicken Pox Exposure	103	9
04-20-04	Battery on Inmate w/Injury	1225	3
05-15-04	Riot	1228	9

UNIT II

DATE OF INCIDENT	INCIDENT TYPE	# OF INMATES AFFECTED	DURATION
07-14-03	Racial Riot	166	3
10-14-03	Racial Riot	1525	6
11-20-03	TB Precautions	166	2

UNIT IV/RC

DATE OF INCIDENT	INCIDENT TYPE	# OF INMATES AFFECTED	DURATION
06-17-03	Battery on Peace Officer / Riot	30	5
09-13-03	Battery on Inmate w/GBI	54	9
09-23-03	Battery on Inmate w/GBI	63	2
09-30-03	Battery on Inmate w/GBI	100	12
10-08-03	Battery on Inmate w/GBI	55	11
10-17-03	Battery on Inmate w/GBI	184	5
12-04-03	Riot	182	5
01-05-04	Battery on Inmate w/Injury	57	2
02-20-04	Riot	573	6
04-12-04	Attempted Escape	112	14
04-13-04	Battery on Inmate	996	7
04-16-04	Threats Toward Staff	193	4

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UNIT IVA

DATE OF INCIDENT	INCIDENT TYPE	# OF INMATES AFFECTED	DURATION
06-07-03	Battery on Inmate	119	4
06-17-03	Riot / Disturbance	376	8
07-04-03	Mass Refusal to Lock Up	156	9
07-16-03	Battery on Inmate	154	5
08-15-03	Racial Tension	271	17
09-07-03	Attempted Murder on Inmate	8	8
10-01-03	Battery on Staff w/Serious Injury	158	22
10-27-03	Battery on Inmate	218	9
11-06-03	Missing Barber Equipment	56	4
11-11-03	Missing Metal – Searches	227	13
12-07-03	Battery on Inmate	41	3
12-10-03	Weapon Search – Discovery	49	11
12-15-03	Battery on Inmate w/Weapon	233	6
12-27-03	Battery on Inmate	208	4
01-01-04	Riot / Disturbance	203	31
01-13-04	Battery on Peace Officer	222	19
01-23-04	Conspiracy to Assault Staff	455	2
04-06-04	Battery on Inmate w/Weapon	238	8
04-17-04	Conspiracy to Assault Inmate	247	4
05-21-04	Battery on Inmate w/Weapon	129	7

UNIT IVA - SHU

DATE OF INCIDENT	INCIDENT TYPE	# OF INMATES AFFECTED	DURATION
10-08-03	Confidential Info of Handcuff Key	327	12

UNIT IVB

DATE OF INCIDENT	INCIDENT TYPE	# OF INMATES AFFECTED	DURATION
08-17-03	Missing Metal	223	3
09-08-03	Riot	101	7
09-22-03	Battery on Inmate w/Serious Injury	112	6
09-23-03	Missing Dangerous Contraband	225	1
10-27-03	Battery on Inmate w/Serious Injury	117	2
01-21-04	Battery on Peace Officer	229	7
01-24-04	Conspiracy to Assault Inmate/ Staff	576	4
02-26-04	Racial Tension	225	8
03-04-04	Racial Tension	110	27
03-30-04	Threats Against Peace Officer	263	28
05-24-04	Homicide – Inmate	230	Pending

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UNIT IVB - SHU

DATE OF INCIDENT	INCIDENT TYPE	# OF INMATES AFFECTED	DURATION
10-21-03	Search for Weapons	309	7

UNIT IVB - YOP

DATE OF INCIDENT	INCIDENT TYPE	# OF INMATES AFFECTED	DURATION
06-03-03	Racial Riot	106	6
08-04-03	Weapons Found	33	10
08-19-03	Battery on Inmate	82	3
09-09-03	Riot	32	13
10-04-03	Racial Riot	104	4
12-14-03	Weapons Found in Common Area	91	5
01-16-04	Battery on Inmate	4	4
02-19-04	Black and Hispanic Grouping	80	14
04-09-04	Riot	93	7
04-16-04	Riot	26	3

The duration listed is inclusive of lockdowns and associated modified program dates. Whenever a Unit is placed on modified program/lockdown, staff immediately begin investigating the cause of the incident. Interviews, monitoring of mail, and searches of living and yard areas are conducted. Once the cause is determined, problematic inmates are removed from the GP. The Unit is returned to normal program in increments. The incremental return is dependant upon meetings with staff and the Men's Advisory Counsel (MAC). Dialogue with the MAC is critical in determining the cause of an incident, and is insightful in developing a diplomatic resolution. While this assessment is going on, uninvolved inmates are allowed to return to normal program as soon as it is safe to do so.

- ◆ *What is your relationship with the Men's Advisory Committee? How often do you personally meet with them to hear their concerns?*

I am committed to creating a credible working relationship with the MAC. My relationship with the MAC is professional, courteous, and open. I personally meet with each facility MAC every month. The Unit Supervisors meet with the MAC no less than every two weeks in an attempt to resolve any concerns before they become serious issues with the inmate population. Additionally, MAC input is solicited when new programs are being considered or implemented.

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SENATE RULES COMMITTEE – WARDEN CONFIRMATION HEARING
RESPONSES TO QUESTIONS

OVERCROWDING

- ♦ *Please provide a summary of your inmate population, including custody level and ethnic background.*

LEVEL	OTHER	WHITE	BLACK	HISPANIC
I	5%	24%	32%	39%
II	6%	23%	26%	45%
IV/RC	8%	14%	30%	48%
IV (Unit IVA)	4%	15%	27%	54%
IV (Unit IVB)	5%	15%	32%	48%

- ♦ *What is the capacity of your institution and at what percentage over that number are you operating?*

LEVEL	DESIGN CAPACITY	MAXIMUM CAPACITY	OCCUPIED BEDS	% OVER DES. CAP
I	617	1,237	1,231	200%
II	540	1,545	1,519	281%
IV/RC	500	1,075	1,017	203%
IVA	500	976	937	187%
IVB	500	811	722	144%
TOTALS	2,657	5,644	5,426	204%

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SENATE RULES COMMITTEE – WARDEN CONFIRMATION HEARING
RESPONSES TO QUESTIONS

RECIDIVISM

- ◆ *What are you doing to reduce recidivism? Are inmates assessed with a pre-release program that is developed based upon their individual needs? Do any of your pre-release programs incorporate inmates' families? How much time per day/week is an inmate involved? How will these programs, if any, be impacted by any proposed budget reductions?*

Increasing inmate educational levels has been shown to decrease the rate of recidivism. Inmates at CCI have access to numerous educational programs, including Re-Entry; Adult Basic Education (ABE) I, II, III, General Education Development (GED); vocational trades, such as Vocational Mill and Cabinet, Vocational Automotive, Vocational Dry Cleaning, Vocational Printing and Graphics, Vocational Electronics; Elementary Secondary Education Act (ESEA); Incarcerated Youth Offender (IYO); college correspondence courses; Corrections Learning Network (CLN), library literacy tutoring; Unit II Listening Center; and the Bridging Program. The recently instituted Bridging Program is designed to allow offenders to begin credit earning immediately upon arrival at the Reception Center. The educational material provided through the Bridging Program is designed to assist in decreasing recidivism.

On February 13, 2004, CCI activated the new Bridging Program in the Reception Center in an effort to expand the educational opportunities for inmates. A component of the Bridging Program is a self-evaluated Life Improvement Plan. This plan incorporates self-assessments of family, health, communication skills, drug and alcohol dependency, anger management, and parenting skills. The sixth week of the Program addresses the inmate's work on the characteristics of good parenting and Planned Parenthood. Inmates assigned to the self-study program receive 30 minutes of teacher/student contact time per week. Inmates are given 6.5 hours of independent work per day, 5 days per week.

The Re-Entry Program is specifically aimed at reducing recidivism. The 3-week (pre-release) Re-Entry Program has a two-pronged approach; the first being psychological (Breaking Barriers, Perception Attitude Choices and Transition (PACT), and the Significant 7), and the second being informational (job search, Department of Motor Vehicles (DMV) information, and other practical know-how information). The Re-Entry Program follows the CDC competency-based curriculum that is adapted to the individual needs of each student. One assignment is Examining Your Interests, which is an individualized job survey concentrating on the inmate's interests. This gives the inmate an idea of what type of jobs he may be successful at. The class meets each day for 6.5 hours, five days a week, for three weeks. The inmate spends a total of 97.5 hours in the Re-Entry class.

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Relative to the adult GP, inmates are currently offered AA/NA. Many inmates are incarcerated for drug and/or alcohol offenses, and the in-custody program can assist the inmate in avoiding this type of behavior upon parole. Additionally, regularly scheduled religious programs, as well as special programs and speakers, are provided on an ongoing basis. Adult inmates are also afforded basic educational programs such as English as Second Language (ESL) and GED preparatory classes.

For the Youthful Offender Program (YOP) inmates, high school education is offered. The Institutional Gang Unit (IGU) offers an anti-Gang education program and other self-help strategies with video presentations such as "Stay on the Streets Program." Also, a Christian Intervention Program has been implemented to steer the youthful inmates away from gang, drug, and criminal activity, in addition to comprehensive Religious programs, to include regularly scheduled services and motivational guest speakers.

CCI is not aware of any proposed budget reductions that would affect these programs at this time.

- ◆ *Have you instituted or expanded any programs to further reduce the risk that inmates will be returned to custody?*

We have recently implemented the Christian Intervention Program to the YOP, Unit I, and Unit II populations. This program has a curriculum that includes drug and alcohol intervention, anger management, parenting, and gang intervention. The new CLN expanded the old Institutional Television (ITV) System and offers classes on anger management, career transitions, and life skills needed to reduce recidivism. Additionally, a gang intervention program has been integrated in the Education Program for the YOP population that is utilizing the curriculum acquired from the California Youth Authority. This is used in tandem with the "Choices Program" presented by the IGU.

CCI has recently activated the new Parole and Community Services Division Pre-Release Unit Team. The Pre-Release Unit Team is headed by a Parole Agent II Specialist. The team interviews inmates who are within 240 days of parole. The inmates complete a six page questionnaire, providing the team with information such as their status as a new offender, parole violator with a new term, drug use history, employment, family, and available housing. This information allows the team to assess the inmate's potential for success on parole and to determine necessary resources.

The Parole Agent II Specialist then coordinates the information with a District Social Worker in the Parole District for the affected inmate/parolee. The District Social Worker can assist the inmate/parolee in obtaining access to needed resources such as lodging, clothing, food, etc. Coordinated access to these resources will maximize the inmate/parolee's chances of success.

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SENATE RULES COMMITTEE – WARDEN CONFIRMATION HEARING
RESPONSES TO QUESTIONS

DRUGS

- ♦ *How are you addressing the problem of inmate access to illegal substances? What specific steps have you taken to eliminate potential sources?*

The ISU staff monitor inmate access to illegal substances by gathering intelligence on all five yards at CCI. These investigations primarily involve narcotics trafficking and some of the methods used are:

- ❖ Random searches based upon information obtained from unit line staff.
- ❖ Exercising of searches of inmates and their living quarters.
- ❖ Monitoring of inmate mail and telephone calls.
- ❖ Gathering necessary information to obtain probable cause to get a search warrant for service on institutional visitors suspected of engaging in illegal acts.

Custody staff on all facilities are a major asset in the interdiction of illegal substances. Custody staff interdict drugs and related paraphernalia through a variety of methods.

- ❖ Conducting clothed and unclothed physical searches of inmates.
- ❖ Inmate property is examined by the use of fluoroscopes.
- ❖ Mail and packages are checked for contraband before being issued.
- ❖ Unannounced or random searches of inmate living quarters.

Prosecution is sought for anyone who is caught trying to introduce, or introducing, illegal substances into the institution. Any institutional visitor who is caught conspiring to introduce or introducing illegal substances into the institution is evaluated by the Warden for a possible exclusion for life from visiting at this institution in accordance with CCR, Title 15, Section 3176 (b), and memorandum dated October 17, 2003, authored by Cheryl Pliler, Deputy Director, Institutions Division.

CCI has been working with the Inmate Family Council to educate and discourage visitors from bringing drugs into the prison.

Through the combined efforts of the Unit Custody Staff and the ISU staff, a significant quantity of drugs, narcotics, and related paraphernalia were interdicted during the past year. Recent drug interdiction efforts have resulted in the following:

DATE	QUANTITY	SUBSTANCE	DISCOVERY METHOD
11-02-03	8 mg	Heroin	Cell Search
11-03-03	.20 g	Marijuana	Cell search
11-21-03	.4 grams	Heroin	Common Area
11-29-03	1.29 grams	Heroin	Civilian Visitor
12-01-03	.49 grams	Wellbutrin	Locker Search

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DATE	QUANTITY	SUBSTANCE	DISCOVERY METHOD
12-03-03	.24 grams	Heroin	Cell Search
12-13-03	2.38 grams	Methamphetamine	Civilian Visitor
12-17-03	87 mg.	Marijuana	Cell Search
12-27-03	31 mg	Marijuana	Cell Search
01-03-04	14 grams	Methamphetamine	Civilian Visitor
01-05-04	.53 grams/69mg	Marijuana	Locker Search
01-10-04	1.09 grams	Marijuana	Inmate Search
01-14-04	11.8g/11.5g/8.4g	Cocaine / Meth / Marijuana	Inmate Search
01-14-04	2.30 grams	Heroin	Civilian Visitor
01-21-04	4.27 grams	Marijuana	Inmate Search
01-21-04	0.72 grams	Narcotics	Inmate Search
01-22-04	.67 grams	Marijuana	Inmate Search
01-28-04	.92 grams	Marijuana	Inmate Search
02-09-04	.11 grams	Heroin	U.S. Mail
02-11-04	.37 grams	Marijuana	Cell Search
02-17-04	0.16 grams	Heroin	Cell Search
02-21-04	22.36 grams	Heroin	Civilian Visitor
02-21-04	.93 grams	Heroin	Civilian Visitor
02-21-04	22.1 grams	Marijuana	Civilian Visitor
02-25-04	.51 mg	Ibuprofen	Locker Search
02-29-04	13.47 grams	Heroin	Civilian Visitor
03-04-04	9.7 grams	Methamphetamine	U.S. Mail
03-14-04	.41 mg	Wellbutrin	Locker Search
03-21-04	.29 mg	Marijuana	Locker Search
04-14-04	.74 grams	Heroin	U.S. Mail
04-26-04	Pending Lab	Methamphetamine	U.S. Mail
05-10-04	Pending Lab	Marijuana	Cell Search
05-17-04	Pending Lab	Marijuana	Cell Search
05-24-04	Pending Lab	Marijuana	U.S. Mail
05-29-04	2.5 gram/3.3 gram	Marijuana / Meth	Civilian Visitor

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SENATE RULES COMMITTEE – WARDEN CONFIRMATION HEARING
RESPONSES TO QUESTIONS

EDUCATION AND WORK PROGRAMS

- ♦ *What educational and what vocational opportunities exist at your facility? What hours do they operate, on which yards, and over what length of time? Is there a waiting list for these programs? If so, how long is it? What programs have been eliminated or downsized in the last 12 months?*

Many educational opportunities exist at CCI. There are a total of 15 Vocational Programs consisting of the following:

- ❖ 2 auto repair service programs.
- ❖ 2 dry cleaning programs.
- ❖ 2 building maintenance programs.
- ❖ 1 landscape program.
- ❖ 1 mill and cabinet program.
- ❖ 1 painting and drywall program.
- ❖ 1 office services program.
- ❖ 1 welding program.
- ❖ 1 air conditioning refrigeration program.
- ❖ 2 printing programs.
- ❖ 1 computer refurbishing program.

There are three 4/10/40 programs (Printing, Dry Cleaning on Unit II, and Building Maintenance on Unit I) operate between the hours of 0630 to 1630 Sunday through Wednesday (A shift) and Wednesday through Saturday (B shift).

On Unit I, several Vocational Programs are offered. These include Vocational Building Maintenance, Vocational Landscaping, Vocational Auto Mechanics, Vocational Mill and Cabinet, and Vocational Painting and Drywall.

The Vocational Programs on Unit II are varied. They include Vocational Computer Repair/Refurbishing, Vocational Dry Cleaning, Vocational Auto Mechanics, Vocational Office Services, Vocational Printing and Graphic Arts, Vocational Refrigeration and Air Conditioning, and Vocational Welding. Students who enter these programs, in general, stay in the classes until they have completed the course and received certificates of completion.

In the last 12 months, one Vocational Upholstery Program was eliminated from Unit I, one Vocational Drafting Program was eliminated from Unit II, one Vocational Upholstery Program was eliminated from IV/RC, and one Vocational Silkscreen was eliminated from IVA. These instructors were diverted to the Bridging Program.

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There are 6 traditional academic education programs (ESL/ABE/GED/YOP) available between the hours of 0740 to 1140 and 1240 to 1520 on Units I, II, IV/RC, IVA, and IVB. Students attend these classes until they have completed their program and/or received certification (i.e., GED certificate). Traditional Re-Entry classes are offered on Units I and II, during the last 180 days prior to release. Additionally, there is a state-funded Computer Assisted Instruction Lab on Unit II.

Other educational opportunities include the YOP high school on Unit IVB for inmates under the age of 18. The federally funded IYO Program for inmates under the age of 25, and ESEA on all units for inmates under the age of 21.

There are volunteer inmate tutoring services on Units I and II, literacy centers in the Units I and II Libraries, Institutional Television Educational Programs (all units), CLN Distance Learning Programs (all units), and college correspondence courses (all units). The YOP, IYO, and ESEA Programs are offered during regular academic school hours. The CLN program is available 24 hours a day, 7 days a week. Inmates are allowed to work on their CLN and/or Bridging Program assignments in their cells at any time.

All academic and vocational classes have waiting lists. All five facilities have Academic Programs. Only Units I and II have vocational programs. There are no Vocational Programs at Units IV/RC, IVA, and IVB. The totals for the vocational and educational waiting lists include all classes for each facility.

UNIT	VOCATIONAL	ACADEMIC
I	85	504
II	69	160
IV/RC	N/A	5
IVA	N/A	108
IVB	N/A	58

The YOP inmates are separated from the GP Adult inmates at Unit IVB. There are 90 academic student positions to serve the YOP population. There are no inmates on the waiting list. When each YOP inmate attends Unit Classification Committee and the Result Sheet arrives at Inmate Assignments, he is immediately assigned to an academic position. Additionally, YOP inmates going through the reception process are provided academic instruction daily and Ad Seg YOP inmates are provided academic materials regularly by teachers to continue their education program. If they complete their high school diploma requirements, they are encouraged to pursue college correspondence courses.

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- ◆ *Have you instituted the new "Bridging Program" to provide education to inmates in Reception Centers who await permanent assignment to institutions? If so, what is your view of how it is working?*

The Reception Center Bridging Program was implemented on February 15, 2004. The Program has assigned over 1,200 inmates since its implementation. There are currently 608 Reception Center inmates assigned to the Bridging Program.

The Arts in Corrections component of the Bridging Program was instituted at CCI on November 1, 2003. On December 1, 2003, the Bridging Program was instituted for GP inmates.

Although a new concept and program, the staff and inmates have responded well to the Bridging Program. It is currently working extremely well, we are fully staffed and we have had very few impediments during the implementation process.

- ◆ *Are you making use of video instruction or distance learning?*

Yes, CCI is currently making use of video instruction and distance learning. ITV is shown on institutional channel 12, which shows instructional films on behavior modification and GED skills. The CLN system is functioning, and over 100 inmates have already signed up for the classes being offered. The most popular, to date, are the Anger Management and Life Skills classes.

The IYO program offers free distance learning college courses to inmates under the age of 25 and within 5 years of release. College correspondence courses are also available to all inmates at their own expense.

- ◆ *What work programs exist at your facility, including Prison Industry Authority? What hours do they operate and over what length of time? Is there a waiting list for these programs? If so, how long is it? How many employees are employed in work programs?*

The following work programs, including Prison Industry Authority, exist at CCI:

- ❖ Janitorial
- ❖ Barber
- ❖ Landscape Maintenance
- ❖ Community Work Crew
- ❖ Clerks and Teacher Assistants
- ❖ Plant Maintenance
- ❖ Food Service
- ❖ Trash Crews

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- ❖ Firefighter
- ❖ Warehouse
- ❖ Men's Advisory Counsel
- ❖ Clothing Distribution
- ❖ Laundry Maintenance
- ❖ Prison Industry Authority (PIA) Textiles

Hours of Operation and Length of Time

- ❖ Some janitorial positions operate 24 hours a day, seven days a week.
- ❖ Food Services positions operate between the hours of 0330 to 2000, seven days a week.
- ❖ Firefighter positions are on-call 24 hours a day, seven days a week.
- ❖ Most maintenance positions, crew positions, clothing, laundry, clerk, warehouse, and teacher assistant positions operate between the hours of 0730 to 1530, Monday through Friday.
- ❖ The PIA operating hours vary slightly from Unit to Unit, but are between the hours of 0700 and 1600, Monday through Friday.
- ❖ The MAC generally works between the hours of 0800 to 1600, Monday through Friday.
- ❖ Barber position hours vary, however, they are generally inclusive of the hours of 0800 through 1600, seven days a week.

Waiting List:

- ❖ The waiting list for the support services positions varies by Unit.
 - Unit I - 459
 - Unit II - 106
 - Unit IV/RC - 1
 - Unit IVA - 203
 - Unit IVB - 30
- ❖ The waiting list for Prison Industry Authority (PIA) also varies by Unit.
 - Unit I - 187
 - Unit II - 187
 - Unit IV/RC - 41
 - Unit IVA - 200
 - Unit IVB - 38

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Number of Employees:

- ❖ There are a total of 211 non-custody employees supervising inmate work programs.
- ❖ Approximately 289 custody staff provide supervision for inmate work programs. In some areas, inmate supervision is shared by both custody and non-custody staff.
- ◆ *What percentage of the inmates at your institution participate in educational, vocational, and work programs (please specify a percentage for each)? Please provide a breakdown by race and custody level.*

Approximately 10.2% of the inmate population that are eligible under Penal Code Section 2933 (day for day credit earning) participates in academic programs and 11% participate in vocational programs. Approximately 57% participate in various work assignments. The remaining percentage of the population are not assigned, although are on a waiting list, or are not eligible due to being housed in SHU, Ad Seg, etc., or do not meet the criteria in accordance with Penal Code Section 2933.

In the Academic Program, 27% of the assigned inmates are Black, 7% are White, 62% are Hispanic, and 4% are Other. The reason of for the low percentage of White inmates enrolled in the Academic Programs is due to a high percentage of these inmates meeting the minimum academic requirements. Additionally, the ESL classes have a 90% Hispanic enrollment, which has a significant impact on the ethnic percentages for the overall Academic Program. Of these, 77 positions are minimum custody, 274 positions are medium custody, and 106 positions are maximum custody.

There are 98 positions for YOP, of which 48% are Black, 3% are White, 44% are Hispanic, and 4% are Other. Of these, 5% are at minimum custody, 5% are at medium custody, 56% are at medium/maximum custody, and 37% are at maximum custody.

In the Vocational Program, the enrolled inmates consist of 24% White; 28% Black; 44% Hispanic, and 4% Other.

In the work program, the ethnic balance stays within 5% of breakdown for each Unit. Approximately 1% American Indian, 4% Other, 24% White, 31% Black, and 41% Hispanic.

- ◆ *What work programs are available for life term inmates? What are the limits on job pay numbers for lifers, and what can be done to expand the jobs available to these inmates? If there are security concerns, do these respond to a statewide policy or are they institution based?*

Custody level determines whether or not an inmate is precluded from assignments. Close A Custody inmates, for example, are restricted to assignments within the facilities' inner perimeter. Other than that, life term inmates have the same opportunities as other inmates within the same level of custody. There are no additional limits to pay number assignments for life term inmates. Security concerns are addressed individually during a classification committee hearing in accordance with Departmental policy.

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◆ *What is the average reading level of your inmates?*

The average inmate reading level at CCI is 5.3.

◆ *Do you feel that your education and/or work programs could be improved? How?*

I feel that all programs can be improved including the education and work programs at CCI. Education staff are expected to continuously develop strategies that address the different learning needs of all students. This will provide program credibility to the inmate population. Additionally, we must strive to promote the importance of education programs at CCI. One of the ways is to make completion of academic requirements and vocational certification a prerequisite to employment in work assignments.

Budget cuts have resulted in the need to explore more creative and effective ways to augment instruction for inmates assigned to education. At the same time, educational programs need to be available for those inmates who are unassigned, have completed their minimum education requirements, or are in work assignments. This can be accomplished by the utilization of programs like the CLN and access to college correspondence courses. Additionally, the education budget must be utilized to maximize the availability of teaching aids, tools, and equipment necessary for teachers to use in the classrooms and shops.

I believe that parole should be utilized as a continuum for education and work assignments to assess the overall effectiveness of these programs by maintaining contact with the employers of the parolees. This information can be fed back to the Education Department at the institution where the inmate paroled from to be considered for program improvement. This information can also be provided to the Education and Inmate Program Unit for evaluation of educational programs on a state-wide basis.

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**SENATE RULES COMMITTEE – WARDEN CONFIRMATION HEARING
RESPONSES TO QUESTIONS**

HEALTH CARE

- ◆ *In your opinion, what is the role of a Warden in ensuring that health care is being provided in an appropriate and cost-effective manner?*

I believe it is my role as Warden to assist and work with the Health Care Manager (HCM) to ensure continuous assessment and improvement of the delivery of health care services, and to optimize health outcomes through the use of human and fiscal resources. This can only be attained by developing consistent structures and programs necessary to provide quality care for our inmate/patients.

We have implemented the Quality Management Committee (QMC) to provide for continual growth and improvement, while delivering health care that promotes good health care outcomes in an appropriate and cost-effective manner.

- ◆ *What are the current problems or difficulties that challenge health care delivery at your facility?*

The most challenging difficulties in providing quality health care are first and foremost, logistical impediments caused by out institutional layout. There are five separate Units integrated with five different levels of custodial classifications. Providing and adhering to all the medical mandates and specific missions can be very challenging. However, we have worked hard to change the culture at CCI in identifying and correcting health care issues by utilizing the QMC to ensure “good correctional medicine.” This, in itself, has been a very challenging philosophical change. The HCM and I are committed to change the culture of correctional medicine.

Other challenging difficulties in delivering health care include:

- ❖ Space utilization.
- ❖ Budgetary constraints and escalating health care costs.
- ❖ Professional vacancies.
- ❖ Numerous missions:
 - YOP
 - SHU
 - Reception Center/Process Inmates

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- ◆ *Are any steps being taken to improve the medical appeals process? How do you track appeals at the informal level? Who is responsible for medical appeals?*

The Medical Appeals Analyst position was established to ensure that inmate medical issues are properly addressed in a timely manner. The Medical Appeals Analyst tracks the nature, disposition, and corrective actions generated by inmate medical issues. The duties of the Analyst include logging and assigning appeals to Clinical and other Health Care staff, preparing appeal responses, maintaining the appeals tracking database, conducting training sessions, and developing reports regarding appeal activity. Every effort is made to bring all formal appeals current by the end of each month.

Informal appeals are processed through the Medical Appeals Office prior to response. Formal level appeals are issued log numbers and due dates by the Inmate Appeals Office and forwarded to the Medical Appeals Analyst. Once accepted, appeals are assigned to Clinical and Health Care Staff, inmate interviews and clinic visits are scheduled, including review of the Unit Health Record. Granted and partially granted appeals are tracked to ensure that the item or action granted is received by the inmate.

Americans with Disabilities Act (ADA) medical issues are carefully monitored by the Medical Appeals Analyst, in cooperation with the Litigation Coordinator and the ADA Coordinator, in accordance with the Armstrong Remedial Plan.

Improvements in the Medical Appeals Process:

- ❖ Appeals Verification Process: Appeals issues and/or actions that are granted or partially granted are tracked to verify completion. A granted appeal issue is kept in the medical appeals database until completion is verified. The completion is not considered as verified until the promised action has actually occurred, such as a follow up orthopedic exam. The Medical Appeals Analyst verifies the completion on a monthly basis by utilizing the computerized tracking system to generate all items pending resolution. Personal contact is then made with the appropriate staff to ascertain status and verify completion or non-completion of the action.
- ❖ Tracking of Informal Appeals: Tracking of all informal medical appeals was initiated several months ago. This tracking involves logging and assigning due dates to informal appeals before they are assigned to Clinical and Health Care Staff. Late reports are generated and used to remind staff when they have an overdue or pending appeal.
- ❖ Upgrade in Computer Capability: In preparation for the implementation of the new Inmate Appeals Tracking System, the Medical Appeals Analyst's computer was upgraded. The computer is now compatible to run the IATS, as well as the Medical Tracking System required by Plata. This data will greatly improve the information available to the Medical Appeals Analyst, and will aid in preparation of appeals and verification of items/actions granted.

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- ◆ *Do you have inmates who are housed in your Infirmary beds who might more appropriately be housed in a skilled nursing facility? If so, approximately how many?*

There are currently five long-term care patients housed in our Infirmary. The needs of these inmates are at a level consistent with a skilled nursing facility. These patients range from chronic respiratory disease, mobility impairment due to loss of limb, diabetes, seizures, and post stroke.

- ◆ *What is your institution's policy on charging for co-pays? What constitutes a follow-up visit?*

California Code of Regulations (CCR), Title 15, Section 3354.2 outlines the Departmental policy for charging co-pays. CCI is in compliance with this policy. Initial visits to the Clinic for medical services result in a co-pay charged to the inmate's Trust Account. Follow-up to the initial visit is not subject to the co-pay charge. Services necessary for communicable diseases, emergencies, mental health, reception center screening, and mandated treatments likewise are not subject to the co-pay charge.

- ◆ *When inmates arrive from other prisons, what is your policy regarding medication prescribed at other prisons? With regard to "chronos" that have been issued at other prisons? When you transfer inmates to other prisons, do you send prescribed medication information with them?*

When inmates are transferred from another state prison with a current medication prescription, those medications are continued as prescribed. The medication will continue until the inmate is seen by our Physician and the prescription is changed if needed or until the date the order expires.

All transferring inmate medical records are reviewed to determine if there are current orders, and these orders are transcribed to avoid disruption of medical care. Chronos from other institutions are honored throughout their duration, unless a Physician at CCI determines, upon exam, that it is not indicated and cancels the Chrono.

Medical staff is notified, in advance, of inmates being transferred to other institutions. This enables staff to review medical files and complete the appropriate form for transfer. This form addresses current medical conditions, treatments, and prescribed medications, and accompanies the inmate in the transport vehicle to the receiving institution.

- ◆ *Does your institution have difficulties recruiting adequate medical staff? If so, what steps have you taken to remedy this problem?*

The difficulty in recruiting adequate medical staff is a two-fold problem. First, because of new programs, legal issues, and changes in mission, we have had to hire additional medical staff. At one time, the Medical Department had approximately 100 positions, and has risen to 178 positions in a relatively short time. As soon as a position is vacant or we receive additional position authority, we immediately begin to recruit, follow our hiring process, and place ads in newspapers, on the Internet, and for certain positions, utilize the Office of Selections and Standards (OSS). Secondly, we concurrently have had personnel who have recently retired. One of those retirements included a Pharmacist position. We have had some difficulty in filling this position due to the salary in the public sector being substantially less than in the private sector. To address this issue, we are using a contracting service to fill the position. We have also contracted professional medical personnel for

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Psychologists, Psychiatrists, and Registered Nurses (RN). In situations like retirement, promotion, or transfers where we have an anticipated date a position will become vacant, we begin the recruitment and hiring process prior to the position becoming vacant, thereby being able to fill the position as soon as possible.

As of April 30, 2004, hiring for certain critical health care classifications has been centralized under OSS. The hiring was centralized to help reduce contract registry expenditures and meet federal court staffing levels required by Plata, Coleman, and Madrid. Appointments made by the OSS are based upon vacancies as reported by the HCM on a monthly basis.

- ◆ *How often do you meet with the Health Care Manager and/or Chief Medical Officer? How do you promote collaboration between correctional and healthcare staff? Is there a specific person responsible for coordinating issues involving both custody and healthcare?*

The Health Care Manager and/or Chief Medical Officer meet every Monday at 10:00 a.m. with Executive Staff. This is a specific meeting set aside every week to promote collaboration between the custodial staff and health care staff. The sharing of information between the two entities, especially after a weekend, brings both sides up to speed on issues and problems; promoting discussion resulting in direction for developing ideas and suggestions for possible solutions. The HCM and I co-chair the QMC where issues and concerns relative to the provision of quality medical services are discussed and tracked until resolved. Regular internal audits of the medical program are also monitored through this process.

There are two specific positions that serve as the liaison for coordinating specific issues to assist the Health Care Manager and myself. Those positions are the designated Associate Warden for Inmate Medical Services, and Correctional Health Services Administrator. These two positions also promote collaboration between custodial and health care staff.

- ◆ *What healthcare personnel are available to your inmates? Who evaluates an inmate's need for medical, dental, and mental health care and what is the average wait for non-emergency care? Are any physicians or dentists on prolonged leave for any reason, including military leave?*

Our medical staff evaluates all our inmate patients collectively. An RN sees all patients who have any medical needs. Medical Technical Assistants (MTA) assist with the process by forwarding their evaluation and recommendation to the Medical Physician. There are Physicians, Dentists, and Dental Assistants who assist with processing all dental needs. There is an entire Mental Health Department who evaluate, screen, and treat Mental Health patients, consisting of Psychiatrists, Psychologists, and licensed Psychiatric Technicians.

Section 12 -- Page 5 of 7

The average wait time for non-emergency medical care by facility is as follows:

- Unit I – 3-5 days
- Unit II – 30+ days
- Unit IV/RC – 1 day
- Unit IVA – 7 days
- Unit IVB – 7 days

The average wait time for non-emergency dental care on all facilities is 1 day.

There are no Physicians or Dentists on prolonged leave at this time.

- ◆ *What mental health treatment is available at your institution? How many slots are available, and is there a waiting list for these treatment services?*

The following mental Health Treatment Services are available on all facilities:

- ❖ Suicide Intervention/Prevention
- ❖ Emergency Response/Intervention
- ❖ Casework Coordination
- ❖ Routine Medication Monitoring
- ❖ Routine Regular Psychologist Follow-Up and Monitoring
- ❖ Intake Screening for Mental Illness (Coleman)
- ❖ Intake Screening for Developmental Disability (Clark)
- ❖ MHCB Referrals
- ❖ IDTT Case Coordination
- ❖ Pre-Parole Counseling
- ❖ Discharge Planning
- ❖ Treatment Groups
 - Anger Management
 - Stress Reduction
 - Symptom Management
 - Medication Management
 - Prison Adjustment and Survival
 - Open Question/Discussion Group
 - Enhanced Outpatient Program for YOP Inmates (Unit IVB only)

CCI has a Mental Health staff consisting of:

- ❖ 4.5 Psychiatrists
- ❖ 1 Senior Psychiatrist (vacant)
- ❖ 3 Senior Psychologists
- ❖ 21 Psychologists
- ❖ 1 Psychiatric Social Worker
- ❖ 6 Psychiatric Technicians

Section 12 – Page 6 of 7

Our Mental Health Staff Census Cap has recently been raised to 1,199 CCCMS inmates, with staff augmentations included.

Waiting time for an appointment with a Psychologist is less than 1 week for routine referrals, and same day services for emergencies. The waiting time for a psychiatry appointment is roughly two weeks for routine referrals, and same day services for emergencies.

- ◆ *Are priority ducats issued to inmates in need of medical and dental care so that they can be seen throughout the day? What are the specific hours that inmates are seen for routine medical and dental care?*

All medical ducats are priority ducats. Dental inmate patients are seen daily on an as-needed basis for Units I and II. Units IV/RC, IVA, and IVB are given priority ducats. The Medical and Dental Departments see patients on Monday through Friday, from 0730-1500 hours.

- ◆ *What is the “no-show” rate for healthcare clinics? What steps have you taken to assure that inmates keep their scheduled medical appointments?*

The daily average for “no shows” for medical/mental health/dental ducats is as follows:

UNIT	DAILY AVERAGE
I	2
II	3
IV/RC	7
IVA	3
IVB	2

If the inmate fails to report for a scheduled appointment, the RN/MTA immediately contacts the Medical Escort Officer or designated Custody Supervisor. The established institutional protocol for locating a missing inmate will be initiated.

If the inmate is not located within 15 minutes of the time the search is initiated, the yard will be recalled and, if the inmate is not located as a result of the recall, an emergency count will be initiated.

Once located, the inmate is rescheduled for the next available clinic date, if medically indicated. The reason for failure to report to the scheduled appointment and the date and time of the rescheduled appointment is documented in the Unit Health Record by the RN/MTA.

If the inmate voluntarily cancels, the RN/MTA instructs the inmate to sign the reverse side of the ducat and give the reasons for cancellation. If the inmate refuses to sign or indicate the reason, the RN/MTA shall sign the ducat and give a brief summary of the inmate's comments on the back of the ducat.

Section 12 -- Page 7 of 7

- ◆ *What is your medical budget? Who negotiates and handles your medical contracts?*

The Medical Budget for Fiscal Year 2003/2004 is \$20,877,588. The Medical Budget Analyst and the Chief Medical Officer are responsible for medical contracts, and the Health Care Services Division negotiates the rates for services.

Section 13 – Page 1 of 1
SENATE RULES COMMITTEE – WARDEN CONFIRMATION HEARING
RESPONSE TO QUESTIONS

LAW LIBRARY

- ♦ *What is your policy regarding the searching of inmates' material in the law library? What is subject to confiscation?*

The inmate's material is searched whenever there is just cause for suspecting inmates of possessing contraband. All contraband is subject to confiscation, however, staff do not read the inmate's legal materials.

All inmates are searched prior to leaving their Housing Unit for any unauthorized material (any item that is not for the direct use in the Law Library). The Floor Officer retains any unauthorized items and the inmate is given a property receipt. Upon entering the Law Library, the Legal Officer verifies the legality of the inmate's material (checking the heading, who it is for, etc.).

- ♦ *When is the law library open? If the library is closed on specific days, how do inmates access it if those days are inmates' days off? What is the charge for copies?*

Library hours are as follows:

UNIT	DAYS	HOURS
I	Wednesday, Friday, Saturday	1200 – 2100 1700 – 2100
II	Tuesday, Thursday, Saturday	1200 – 2100 1200 – 1600
IV/RC	Wednesday, Thursday, Saturday	0730 – 1500
IVA	Tuesday, Wednesday, Friday, Saturday	0730 – 1130
IVB	Tuesday, Thursday, Friday, Saturday	1230 - 1500

Library schedules are arranged so that all inmates have the opportunity to access the library on one of their regular days off. Inmates are able to change jobs or transfer to a different Unit to facilitate a greater amount of access. Inmates receive a minimum of 2 hours of library time within 7 days of their written or verbal request for legal access.

The charge for legal copies is \$.10 per page.

Section 14 – Page 1 of 2
SENATE RULES COMMITTEE – WARDEN CONFIRMATION HEARING
RESPONSE TO QUESTIONS

LITIGATION AND SPECIAL PROBLEMS

- ♦ *Please provide the committee with a list of the following: (1) all pending litigation in which you or your institution is named; (2) any judgments or settlements against you or your institution since you have been Warden; and (3) any existing court orders involving your institution. Please comment on any litigation that has been given a court date, all judgments or settlements, and the status of any court orders.*

The following is the pending litigation against W. J. Sullivan (Warden):

ANDREWS, ANDRE FRANK vs. DR. MOOR, ET AL.	CIV F-03-6969	Pending
BARBER, GARY vs. A. SHIPLEY, ET AL.	CIV F-04-5058	Pending
HENRY, ISADORE vs. L. MELCHING, ET AL.	CIV F-03-5255	Pending
MYLES, REYNALDO vs. SULLIVAN, ET AL.	CIV F-04-5329	Pending
McCLAIN, RANDY vs. HUMES, ET AL.	CIV F-02-5056	Pending

Pending litigation against the CCI is detailed on Attachment A.

The following are pending Judgments and Settlements Against CCI and/or the Warden:

MARTINEZ, ANDRES vs. GOMEZ, ET AL., 96-0271	Settled and dismissed. Settlement - \$2,000 to Plaintiff for attorney fees only	01/24/04
SUTTON, KATHYRN vs. CALIFORNIA, BC248118	Settlement for defendants. No monetary loss. Defendants waive any future claims and attorney costs against plaintiff.	11/05/03
SUTTON, WARD vs. CALIFORNIA, BC248123	Settlement for defendants. No monetary loss. Defendants waive any future claims and attorney costs against plaintiff.	11/05/03
GRAHAM, LINDEN, ON HABEAS CORPUS, HC007941	Merit to both sides - adjust credit loss.	11/15/03
KOCH, RODNEY, ON HABEAS CORPUS, HC007857	Settled. Plaintiff will be able to submit CDC 602 on this issue.	10/14/03

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Court Orders Affecting CCI:

ARMSTRONG vs. DAVIS (ARMSTRONG 1)
ARMSTRONG vs. DAVIS (ARMSTRONG 2)
CLARK vs. CALIFORNIA
COLEMAN vs. DAVIS
GILMORE vs. CALIFORNIA
MADRID vs. WOODFORD
PLATA vs. SCHWARZENEGGER
VALDIVIA vs. SCHWARZENEGGER

Shortly after assuming the Warden's position, I initiated efforts to act against potential litigious and expensive claims by resolving inmate issues at the lowest level of review. As a result, the Litigation Office has been monitoring and focusing their resources in the following areas:

- ❖ Court Access – Inmate's access to the Courts, Law Libraries, and legal materials.
- ❖ Inmate Appeals – Working cooperatively with staff in order to identify and resolve complaints before claims are filed with the Courts.
- ❖ Habeas Corpus Petitions – Tracking of Petitions for Writs of Habeas Corpus based on conditions of confinement.
- ❖ Monthly Briefings – Highlighting areas of increased litigation at the administrative staff meetings and working cooperatively to resolve issues at the local level.

Monthly meetings with Executive Staff have provided a platform for monitoring the claims and activities of litigious inmates. Emphasis is being put on the need to have staff thoroughly document any inmate behavior that may potentially lead to litigation, and to resolve legitimate inmate complaints regarding their conditions of confinement at the local level.

- ◆ *How many EEO complaints has your institution received in the past two years? How many of them have been resolved?*

There have been 78 EEO complaints filed since May 2002. Of those, 66 have been resolved and 12 remain open:

- 9 – Under investigation by the Department's Office of Civil Rights.
- 1 – Under review by the Department of Fair Employment and Housing.
- 2 – Pending informal resolution.

During this time period, 80 inquiries made to the EEO Coordinator did not meet the EEO criteria.

- ◆ *Are there any special problems you care to share with the committee? Are there any events in your past that the committee might regard as relevant to the confirmation process that you have not commented on elsewhere?*

All special problems have been addressed in this document, and there are no events in my past that I am aware of that the committee would regard as relevant to the confirmation process.

California Correctional Institution

Attachment "A" -- Pending Litigation

<i>Case Name</i>	<i>Case Number</i>	
<i>Civil Rights</i>		
ARCEO, ANTHONY Safety, Denial of Due Process	VS. CAL TERHUNE, ET AL.	CIV S-00-0057 GEB GGH P open
BEELS, FRANK (JASON) Wrongful Death	V. STATE OF CA., A. CALDERON,	S-1500-CV-251578-SPC pending
BEITCH, ARRON HARVEY Failure to Protect	VS. S. HATTON, ET AL.	C 02-2341 MJJ open
BLODGETT, ESTATE OF Wrongful Death	VS. CALIFORNIA	CIV-F-01-5472 open
Bradley, Percy Cruel and Unusual Punishment, Retaliation	v. L. Bowen, et al.	CV 02-1451-VAP (CW) open
BRATTON, GEORGE Harrassment, medication tampering	VS. E. ROE, ET AL.	CV 00-00528 ABC (MAN) open
BRIGNAC, JARON Cruel and Unusual Punishment, Law Library Access	v. STAINER, ET AL.	245064 open
BROWN, DARRYL E. Due Process, Equal Protection, Cruel and Unusual	VS. SCHMIDT, HAVILAND	KCSC 249071 pending, no court
BROWN, KAREEM LAMAR Excessive Force	v. R. MAZUKA, ET. AL	CIV F-01-5832 REC HGB P open
BROWN, THORNELL Use of Force, Retaliation, Failure to Protect	VS. B. STONE, ET AL.	04-1810 AHS (PJW) pending
BROWN, THORNELL Denial of Due Process	VS. GANDOLA, ET AL.	03-5867 GLT (PJW) open
BRYANT, WILLIAM Cruel & Unusual Confinment, Denial of Due Process	VS. R. CORTEZ, ET AL.	CV 03-09424 RGK(PJW) open
BUCKLEY, ANTONIO CORTEZ Denial of Due Process	VS. ALAMEIDA, JR., ET AL.	this is pending open
Burnett, Marion Deliberate Indifference, Failure to Train staff	v. CAMBRA, ET AL.	01-2249 GEB GGH-P pending
CHAUVERS, BRENDA Deliberate Indifference to Medical Needs	CAMBRA, ET AL.	CIV F-02-5525 REC LJO open
CRITTENDEN, JAMES Deprivation of Rights, Conspiracy	VS. L. SCHULTEIS, ET AL.	CIV F 03-5071 REC DLB P Open
Davis, Dorian ADA violation, Due Process, Deliberate Indifferenc	vs. L. GRAVES, ET AL.	CIV S-01-549 LKK PAN-P open
DAVIS, JOHNATHAN Discrimination, Excessive Force	VS. GALVAN, ET AL.	CIV F-03-6093 pending
ELDER, ROMENION LAMONT	V. T.L. ROSENDRAANS, ET AL.	CIV S-03-0583 FCD PAN P pending

<i>Case Name</i>	<i>Case Number</i>	
EWING, JOHNNIE EARL Law Library	VS. GRAY DAVIS 2003-CV-01555	pending
GALLAGHER, PAUL MITCHELL Indifference to Medical Needs	V. E. ROE, DR. SETHI CV 00-4670 LGB (JTL)	open
GEORGIADIS, KYRIAKOS FIVOS Liberty Interest, Equal Protection	V. HOWARD, ET AL. CV 01-9226 GLT (CW)	open
GONZALES, GERARDO Harrassment, Conspiracy	VS. TOM CAREY, ET AL. CV F-00-5534 OWW LJO P	pending
GREGORY, NORMAN TIMOTHY Cruel and Unusual Punishment	V. (LAC) E. ROE, ET AL. CV 02-2746 JVS(MC)	open (12/22/03)
GUERRA, DANNY MONTANA Deliberate Indifference to Medical Needs	VS. CALIFORNIA, ET AL. 212826 SPC	open
GUTIERREZ, MIGUEL Deliberate Indifference to Medical Needs	v. M. YARBOROUGH, ET AL. CV 02-0678	Change of venue
HAZLETON, WILLIAM Deliberate Indifference to Med, Cruel and Unusual	VS. ALAMEIDA, ET AL. CV 03-06826 LGB (AJW)	pending
HENRY, ISADORE Second Hand Smoke	VS. L. MELCHING, ET AL. CIV-F-03-5255	open
JOHNSON, BRUCE Deliberate Indifference to Medical Needs	VS. T. VO, ET AL. CV 03-04280 R (RZ)	pending
JONES, TIMOTHY D. Falsification of Documents	B. HENRY, ET AL. CV 02-1047 ABC PJW	pending
JORDON, ROBERT Indigent Envelopes	VS. GREENAN & GOERTZEN CIV F-99-5093 REC SMS P	open
KOCH, RODNEY Inmate Safety	VS. VICTOR A. AUSTIN, ET AL. CIV-F-03-5021 AWI DLB P	open
LEACH, DONALD ROBIN Failure to Protect	VS. LOWE, ET AL. CIV F-00-6139 REC LJO P	open
LEMBACH, FREDERICK Discrimination	V. CDC, ET AL. 02AS00480	open
LEO, JACK Negligence	VS. CAREY, ET AL. CV-F-02-5244 REC LJO P	pending
LEVI, ARNOLD	VS. DIRECTOR OF CORRECTIONS, CIV S 02-0910 WBS KJM P	pending
LEVI, ARNOLD Un-necessary pain and suffering	VS. J. MACK, ET AL. 250361 RJA	pending
MAGANA, MIGUEL Wrongful death, neglect medical care and treatment	PARENTS OF V. STATE OF CALIF, S-1500-CV 251731 SPC	pending, not
MARTINEZ, CARLOS Deliberate Indifference to Medical Needs	V. ALAMEIDA, JR., ET AL. CV 01-00493 JFW (AJW)	open
MAYES, MICHAEL A. Due Process Rights, Harassment,	VS. D. L. RUNNELS, ET AL CIV S-01-1108 DFL KJM P	pending
MCCLAIN, RANDY Deliberate Indifference to Medical Needs	VS. HUMES, ET AL. CV 02-5056 AWI SMS P	open

<i>Case Name</i>	<i>Case Number</i>	
McCOY, J. RAYMOND Discrimination due to disability	VS. ERNEST C. ROE, ET AL. CV 03-2393 VAP (AJW)	open
McCRAV, KIMOTHY R. Deliberate Indifference to Medical Needs	VS. M. YARBOROUGH BC306189	open
MCKINLEY, KEANEN Due Process Rights, Liberty interest, Delib. Indif	VS. MONTEIRO, ET AL. 03-09057AHS (RC)	pending
MCKINNEY, GREGORY Deliberate Indifference to Medical Needs	VS. GOMEZ, ET AL. 01-17436	pending
MERCHANT, CURTIS HARVEY Equal Protection, Search & Seizure, Retaliation	VS. R. BELTRAN, ET AL., CV 03-9563 GHK (PLA)	pending
MONTOYA, FREDDIE Cruel & Unusual Confinment, Failure to Protect	VS. MOORE, ET AL. CIV F-04-5354 REC DLB P	pending-not served
MURPHY, KEVIN Deliberate Indifference, Cruel and Unusual	vs. K. CHAGNON, ET AL. CIV F 02-5779	OPEN
MYLES, REYNALDO v. J.W. SULLIVAN, ET AL.	CIV F-04-5329 AWI TAG-P	pending
NASH, ELLIOTT Equal Protection, Due Process	V. GROVE, ET AL. CV 02-05521 SWW	open
NUNEZ, JOE Cruel and Unusual Punishment	VS. K. NOWICKI, ET AL. CIV F 02-6644 OWW LJO P	open
PAPPAS, PHILLIP Freedom of expression, Retaliation, Falsifying doc	VS. YNIGUEZ, ET AL. M59420	pending
PARKER, ROBERT Deliberate Indifference to Medical Needs	VS. M. HUTTON, ET AL. CIV F-99-6613 OWW SMS	open-9th circuit,
PEREYDA, KIM Wrongful Death	vs. CALIF., CALDERON, ET AL. 247177 SPC	pending
PERRY, RICHARD L. Deliberate Indifference to Medical Needs	vs. B. MILLER, ET AL. CV-F-03-5137 AWI LJO P	open
PORTER, EARL Deliberate Indifference to Medical Needs, Cruel an	VS. COUNTY OF SAN BERDO, ET SCVSS 087912	pending
REEVES, JAMES W. JR. Deliberate Indifference to medical needs	H. MARKOFF, ET AL. CIV F 03-5638 AWILJO-P	pending
RICHARDSON, BRYAN Inmate Safety, Threats	VS. CDC, ET AL. CIV F-04-5394 DLB-P	pending
RICHARDSON, WAYNE Failure to Protect	C. JURCAK, ET AL. CIV F 02-5672 REC LJO P	open
ROBINS, ROBERT LEE JR. Conspiracy, Misuse of authority, Religious beliefs	VS. BLEVINS, ET AL. F-99-6364 AWI LJO P	open
SANDERS, MAURICE DION Cruel & Unusual Confinment, Deliberate Indifferenc	VS. E. ROE, ET AL. CV 01-10509 NM MLG	open
SCOTT, SHANNON Inmate Safety	VS. SGT FORTSON, ET AL. CV 03-0805 SWW (MLG)	open
SHEETS, DANIEL DEAN Conspiracy, Delib. Indifference to Medical Needs	VS. TERHUNE, ET AL. CV F-98-6506 AWI SMS P	open

<i>Case Name</i>	<i>Case Number</i>	
SMITH, HARUN Personal Injury, Deliberate Indifference to Medical	VS. D. PATTON, ET AL. CIV F 02-6123 REC SMS P	open
THOMPSON, CHARLES WAYNE Personal Injury, General Negligence	VS. CALIFORNIA, ET AL. 251042 SPC	pending
TIDWELL, HAROLD Appeals Exhaustion Requirement, Indiff. Med. Needs	VS. DR. HIRSH, ET AL. CV 03-8806-JVS (MLG)	pending
TOLBERT, ALFONZO Excessive Force	VS. C. SHILAY, ET AL. CV-F-03-5254 REC SMS P	pending
VALDIVIA, JERRY, ET AL. Class Action/Parole Revocation constitutionality.	SCHWARZENEGGER, ET AL. CIV S-94-0671 LKK/GGH	open
WADE, CHARLES Deliberate Indifference to Mental Health Needs	VS. HOPPE, ET AL. CIV F-02-6012 AWI SMS-P	pending 2/5/04-not
WALKER, G. DANIEL Deprivation of Rights, Conspiracy	VS. R. GUEST, ET AL. SAC CO. SUP. CRT. 01AS04203	pending
WALKER, G. DANIEL Cruel and Unusual Punishment	vs. R. PAPAC, ET AL. CV F-99-6445 REC SMS P	pending
WASHINGTON, JESSE Medical Disability	VS. E. ROE, ET AL. CV 01-3643 CAS (RNB)	open
WELCH, ANTHONY Conspiracy, Delib. Indifference to Medical Needs	VS. DR. SETHI, ET AL. CIV F-02-6556 REC SMS P	open
WILLIAMS, MARCUS R. Religious Beliefs, Racial Disc, Cruel and Unusual	VS. YARBOROUGH, ET AL. CV F 05-5094 REC SMS P	pending
YOUNG, CLAUD Misuse of Authority, Retaliation	VS. SPECK, BLEVINS, DOES 1-20 CIV F 03-6205	pending
<i>Civil--Small Claims</i>		
AGUILAR, LEO Property	VS. WALLACE, ROBINSON M-1502-CS-6590	open
ELLINGTON, BOBBY HILL Property	VS. GUILLEY, ET AL. M-1502-CS6631	pending
GOODALL, HARRY C. Property	VS. NICKISCH, ET AL. M-1502-CS-6607	pending
MACK, ANTHONY Property	VS. DIAZ, ET AL. M-1052-CS-9595	pending
<i>Class Action</i>		
JOHNSON, JOHN General Negligence, Barbering Tools	VS. CDC CV 02-2109 DT	open
<i>Miscellaneous</i>		
ANDREWS, ANDRE FRANK	VS. DR. MOOR, ET AL. CIV F-03-6969 OWW TAG-P	pending
BARBER, GARY	VS. A. SHIPLEY, ET AL. CIV F-04-5058 OWW TAG-P	pending

Petition for Writ of Habeas Corpus

<i>Case Name</i>	<i>Case Number</i>	
ACEVEDO, YSIDRO G. Ineffective Counsel	VS. PEOPLE OF CALIF. KCSC SC082343	open
ARCHULETA, MIKE Conviction	CALDERON, on Habeas Corpus	pending
BARNES, ANTOINE Commitment Time	CALDERON, on Habeas Corpus CIV-F-5559 AWI SMS HC	pending
BENSON, JAMES PATRICK Grooming Standards	vs. ALAMEIDA, On Habeas Corpus	Unknown
BENSON, JAMES PATRICK Conviction	VS. CALDERON, ON Habeas Corpus	pending
BOYKIN, SHAWN Conviction	ON HABEAS CORPUS A792791	unkwown
FERNANDINO, RUBEN Property	ON HABEAS CORPUS HC008352	open
HERNANDEZ, JESUS Due Process Rights	VS. J. SULLIVAN, WARDEN C 03-5060 SBA (pr)	pending
ISREAL, MICHAEL Court abuse of discretion	DEPARTMENT OF CORRECTIONS S123913	initiated
LEVI, ARNOLD various	- -6 Various Petitions received no case numbers, no court stamp	pending
LEVI, ARNOLD Improper Appeals Denial, Indiff. Med. Needs	ON HABEAS CORPUS HC008249	open
LEVI, ARNOLD Denial of Access to Courts, Falsification of Docs	ON HABEAS CORPUS HC008271	open
LOVE, ALFRED Classification	ON HABEAS CORPUS F042874	pending
MEDINA, ISMAEL Cruel & Unusual Confinement, Denial of Due Process	ON HABEAS CORPUS HC008160A	pending
MOTT, FRED Conviction	ON HABEAS CORPUS C 03-0864 MMC (PR)	pending
N'KIMOTU, ARABIAN Due Process Rights	SULLIVAN, On Habeas Corpus 03-0330-AHS (SHS)	pending
PAGE, DANA Ineffective Counsel	M. YARBOROUGH C 03-0205 PJH (PR)	pending
PINEIDA, GABRIEL Commitment Time, Cruel and Unusual Punishment	ON HABEAS CORPUS 571476-1	pending
RICHARDSON, BRYAN Inmate Safety, Threats	ON HABEAS CORPUS HC-8296	open
ROSS, ROBERT MASON Conviction	A. CALDERSON, ET AL. CV 03-05532	pending
SIMMONS, RONALD Commitment Time	VS. WARDEN YARBOROUGH CV 02-2679	pending
STEPHAN, CHRISTOPHER JOHN Low bunk/low tier and dispensing, of medication	HC008109	pending

<i>Case Name</i>	<i>Case Number</i>	
TATEYAMA, WESLEY TAKESHI Conviction	VS. DIRECTOR,	pending
TRIPLETT, ANTHONY Conviction	VS. JOE SULLIVAN	C 03-5262 SBA (PR) pending
WELLS, BRUCE, JR. Conviction	VS. A. CALDERON, ET AL.	MA013226 pending

Torts and Condemnation

BODDE, PATRICIA Wrongful Death, Negligence, Neglect	VS. M. SONGER, ET AL.	CV 02-5382	open
GREEN, IRA Deliberate Indifference to Medical Needs	vs. DR. BAUGHMAN, ET AL.	CIV-F-03-5455 AWI LJO P	open
YOUNG, MALCOM ANDRE Deliberate Indifference to Medical Needs	VS. DANIELSON, ET AL.	CV 02-5003 REC SMS P	open



OFFICE OF THE DIRECTOR
GOVERNOR'S OFFICE OF EMERGENCY SERVICES
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July 16, 2004

Nettie Sabelhaus, Appointments Director
Senate Rules Committee
State Capitol, Room 420
Sacramento, CA 95814

Dear Director Sabelhaus:

Thank you for the opportunity to reply to your letter dated June 25, 2004, which requests responses to questions in preparation for the confirmation hearing for my appointment as Director of the Governor's Office of Emergency Services (OES).

1. Please provide us with a brief statement of your goals. What do you hope to accomplish during your tenure?

My arrival at OES coincided with substantial budget and personnel cuts along with a level of disaster activity that had not been experienced in several years. This has reinforced my commitment to get back-to-basics and focus on the core mission of OES. This includes first and foremost a commitment to support local government in all phases of emergency management. I intend to reinvigorate the Standardized Emergency Management System (SEMS) by convening the SEMS Technical and Advisory Committees as soon as possible. I will also be coordinating with the Governor's Office to convene the California Emergency Council.

I feel it is critical that our agency have an updated strategic plan that outlines our goals and objectives to move into the future. As part of this we will be instituting a program to ensure that our own staff, as well as our state agency partners, local and private customers are fully trained and participate in regular regional-based exercises.

We at OES have a state-of-the-art emergency operations center, one of the premier training centers, manage billions of grant dollars for disaster recovery, criminal justice programs and homeland security, a sophisticated mutual aid system that coordinates thousands of resources, and what is arguably the most effective emergency management system in the world. These responsibilities are critical to the state's ability to manage disasters and emergencies. I intend to fulfill these commitments to the people of California.

The Governor asks everyone to, "Flex your power, reduce your energy use."

For more information please go to: <http://www.flexyourpower.ca.gov>

Former OCJP Grant Programs

1. How much money has the federal government frozen, and for what programs? What affect has this had on service delivery?

A total of \$70,460,440 in federal government funds are currently frozen. The two federal departments involved are the U.S. Department of Justice (\$60,759,743) and the U.S. Department of Health and Human Services (\$9,700,697).

The U.S. Department of Justice funds the following grants:

- The Victims of Crime Act (VOCA) (\$2,364,968);
- The Violence Against Women Act (VAWA)/Services*Training*Officers*Prosecutors (STOP) (\$1,553,116);
- The Edward Byrne Formula Grant Program (\$45,987,032), and;
- The Residential Substance Abuse Treatment (RSAT) Formula Grant Program (\$10,854,627).

The U.S. Department of Health and Human Services funds the following grants:

- The Family Violence Prevention Services Act (FVPSA) Formula Grant Program (\$7,387,302);
- The Children's Justice Act (CJA) Formula Grant Program (\$2,043,395), and;
- The Mentoring Children of Prisoners Discretionary Grant Program (\$270,000).

The freezing of federal funds has had a significant affect on some OES subgrantees. Some subgrantees have been fortunate enough to have no affect on service, as they have received funds from more current awards and are able to bear the cost while awaiting payment. Other subgrantees have continued to provide services at their own expense, and have not been reimbursed for expenditures since October 2003. Other subgrantees have been unable to deliver any services pending resolution of the funding issues.

2. When do you anticipate that the Governor will submit the final plan for transferring the former OCJP grant programs?

Since incorporating a large portion of the former OCJP on January 1, 2004, OES has worked hard to integrate those programs into our existing operation. We have made large strides in addressing significant funding issues and are moving forward each day to better meet customer needs.

Governor Schwarzenegger has also promulgated the California Performance Review (CPR) process. This process has looked at all aspects of the state government organization to find ways to increase efficiencies and provide better service delivery. The programs of the former OCJP are included in this review, and it is anticipated the CPR report will reflect recommendations for the public and the Legislature to consider.

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3. Do you believe current management of the domestic violence shelter grant program is optimal, or would you support reforms such as proposed by SB 914 (Bowen)?

Since the incorporation of the domestic violence shelter program into OES, there have been continual improvements to the program and we are looking at all options for further improvement. With regard to SB 914, OES has been working very closely with the author's office, to ensure that the bill is crafted in such a way that it is agreeable to all parties. I feel confident that a mutually agreed upon product will result.

Equipment and Infrastructure Deficiencies

1. What percentage of the OES' fire engines now have been in service longer than the 17-year useful life that OES has established? How long will it be before OES retires all the engines that are beyond their useful life?

Of OES' current Engine Fleet of 111 fire engines, about 25 have been in service longer than the 17-year useful life. To prevent an impact to public safety, OES has taken measures to immediately address replacement needs and will continue to do so in a systematic and fiscally attainable manner.

OES adopted a three-year engine procurement contract cycle beginning with the 00/01 Fiscal Year. As a result, OES is taking possession of 21 new engines purchased with funds from our 00/01, 01/02, and 02/03 fiscal year budget authorities. Of this amount, 16 of 21 engines have now been assigned, and the last five will be fully assigned by July 2004. OES plans to replace 21 additional engines over the next three years through a similar three-year contract with funds from our 03/04, 04/05, and 05/06 Fiscal Year budgets.

OES has undertaken the bid process for the next cycle of 21 engines, and is currently awaiting approval from the Department of Finance to award the bid. Subsequently, and funding permitting, OES will continue to replace seven engines each year to continue to comply with the 17-year replacement cycle.

2. Is the purchase of thermal-imaging equipment a priority? Have you established a combined state and local agency thermal-imaging-equipment purchasing program, as required by law? If you lack adequate statutory authority, do you plan to seek it?

AB 70 (Wright) established a thermal imaging equipment program within OES and creates an advisory committee to develop specifications and information to facilitate the purchase of thermal imaging equipment at competitive rates. In January 2004, OES sent a letter to the agencies named in AB 70 to announce the first committee meeting, which took place on February 26, 2004. Ten representatives of fire service agencies and organizations throughout the state were in attendance. The outcome included:

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- OES Fire & Rescue was selected as the Committee Chair;
- An electronic survey of the California Fire Service will be completed by August 2004 to evaluate feasibility of cost-shared participation in the program;
- The subcommittee will develop AB 70 Committee technical specifications for selected thermal imaging brands/models, to be completed by September 30, 2004;

OES Fire and Rescue has completed review of the state procurement processes for the Thermal Imaging Purchase Program. While OES did not receive a specific appropriation to meet its cost share for this program, we continue to explore all possible funding sources for this program, including federal grants. In addition, OES will explore ways to obtain the necessary authority to receive and maintain cost share funds from local government or other sources, legislation to establish an appropriate fund to deposit contributions and continuous appropriation authority.

3. Is the purchase of urban search-and-rescue vehicles a priority? Do you have a current needs assessment?

OES continues to evaluate prior assessments of the Heavy Rescue Unit placement/capability in order to update the placement plan. One issue is that over the last three years, the costs for Heavy Rescue Units have increased significantly. Currently, it costs \$750,000 to procure one fully equipped Heavy Rescue Unit.

The current Statewide Resource Survey shows there are 40 Type I Heavy Rescues statewide. Of these, OES Fire and Rescue staff has been requested to inspect and certify 23 Type I Heavy Rescues, which will help define current capability and needs.

4. If the telephone system failed in a disaster today, could OES communicate adequately? What is the state of OASIS system maintenance? Has the new maintenance contract been signed? Does OES have funds to upgrade and extend the life of the system?

OES has identified and received approval for approximately \$3.5 million in federal grant funds to modernize OASIS, a portable satellite-based network that provides communications when landline systems are disrupted. OASIS links every California county, the major state and federal operational agencies, the United States Geological Survey, and the California Institute of Technology. While still mission capable, the aging components of the OASIS system continue to deteriorate each year.

Currently ten of the 70 fixed remote sites are out of service awaiting replacement of worn out components. Seven of the sites are showing signs of distressed equipment but are still mission capable. Both hubs and seven transportable earth stations are operational. OES personnel continue to monitor the system closely and innovate solutions to maintain maximum mission capability.

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Although OES and Hughes Network System (HNS) agreed to basic terms in January 2003, approval processes delayed signing until the end of Fiscal Year 02/03. As a result, OES was unable initially to pay HNS for the service from January 1, 2003, the inception of the contract, through June 30, 2003. OES facilitated HNS' claim for this payment and has just received the authority to release funds from the Board of Control.

OES placed OASIS modernization at the top of its priorities for Federal Homeland Security Grant funding in the current cycle, and included \$3.5 million in the state's grant proposal to the federal Department of Homeland Security. This funding will cover final engineering and basic conversion to a modernized radio and information processing system. If future funding is available, OES proposes to further enhance OASIS by improving its connections to both the Public Switched Telephone Network and Internet, providing IP based video conferencing capability, and cross linking to other state-owned high speed data networks to allow for dynamic, priority based routing of traffic both during emergencies and normal operations.

Standardized Emergency Management System

1. Does OES now prepare after-action reports following all disasters? Does OES now have a detailed, specific system to evaluate after-action reports, and is it used consistently after every disaster?

OES prepares After Action Reports (AARs) following all Gubernatorial and Presidential declared emergencies and disasters. OES has policies and procedures for development of AARs that address response actions taken, application of the Standardized Emergency Management System (SEMS), SEMS compliance, suggested modifications to SEMS, plans and procedures, training needs, recovery activities and follow-up recommendations.

The process for an AAR involves an initial critique of successes and areas in need of improvement at each response level (city, county, state). This forms the basis for the development of the After Action Survey forms that are submitted through the Operational Areas (counties and all their political subdivisions) and state agencies to OES. OES then develops the comprehensive AAR evaluating the recommendations for accuracy, significance in improving emergency response and recovery actions.

Statewide forums, such as the Statewide Emergency Planning Committee (SWEPC), the OES Fire and Rescue Advisory Committee/FIRESCOPE Board of Directors are used to develop improvements that address the recommendations of the After Action Reports.

Current AARs are underway for the Fall 2003 Wildfire Siege. OES is in the final stages of the AAR process for the San Simon earthquake event. These activities are in addition to those of the Governor's Blue Ribbon Fire Commission, which also evaluated the wildfire response. An AAR for the Jones Tract Levee Break disaster will also be initiated soon.

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2. Does OES now require local agencies to submit their after action reports prior to reimbursing them?

Current regulation does not require submittal of AARs to OES prior to reimbursement. OES does require those agencies requesting reimbursement for personnel response-related costs to submit proof of compliance with SEMS in the following areas:

- Planning
- Training
- Exercises
- Performance

The AAR when submitted becomes evidence of performance. It indicates the use of SEMS in response activities. Submittal of the AAR when requesting reimbursement could result in a "rush to judgment" that could be detrimental to an effective, useful AAR. Taking the time to complete the process results in a more comprehensive useful documentation.

Terrorism Prevention and Readiness

1. Has OES revised the State Emergency Plan to include terrorism prevention? Can you provide the committee with a copy of the current plan? Have any revisions been implemented?

The Terrorism Response Plan was prepared as an annex to the State Emergency Plan in 1999, and was updated in 2001. This plan describes the connection between California's SEMS and the federal government's response to a terrorist event and outlines the responsibilities of state and federal government agencies responding to major nuclear, biological, and chemical emergencies. This plan provides essential information for governmental agencies' activities in response to terrorist threats and incidents in California. This plan forms a basis for all agencies to develop procedures for responding to a wide range of terrorist incidents.

A second draft revision of the Terrorism Response Plan was completed in December 2003 (copy enclosed). This revision addresses terrorism prevention, as well as organizational and procedural changes that have occurred since the original plan was written. OES continues to coordinate with the Office of Homeland Security (OHS), to finalize this revision. We will ensure that the plan not only reflects California's current structure and processes, but also is consistent with the new National Response Plan scheduled for release in the near future.

2. Has OES conducted the terrorism readiness exercise involving the State Operations Center and one regional center that it planned for this year? If so, what did you learn about our ability to respond to attacks? Can you give the committee a copy of your evaluation? Do you believe that there is a need for exercises involving other regions, such as the Bay Area? If not, when do you plan to do so?

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OES held a functional exercise of the State Operations Center and Inland Regional Emergency Operations Center on March 24, 2004. This exercise was effective in simulating regional and state support to local requests for assistance in response to a bioterrorism event, and identified key issues in the areas of communication, staffing and coordination. This was originally to be held in conjunction with the statewide hospital exercise in November with the same scenario, but was postponed due to the Southern California fire response.

In addition, OES is participating in the Golden Guardian/Determined Promise '04 exercise to be held Aug 5-6, 2004. The California portion of this terrorism exercise is sponsored by the CA Homeland Security Exercise and Evaluation Program and OES, in cooperation with the US Department of Homeland Security, Office of Domestic Preparedness. The functional exercise will include an activation of the State Operations Center, Southern and Coastal Regional Emergency Operations Centers and Joint Investigation Operations Center (FBI), with some field activity in the Bay Area and Southern California using a Weapons of Mass Destruction scenario. OES hosted a tabletop drill on July 8 for state agencies in preparation for the August functional exercise. This tabletop focused on discussion of the threat, notification and recovery/restoration phases of a terrorism event.

Roles of OES and the Office of Homeland Security

1. What is the exact relationship between OES and the Office of Homeland Security? Do you believe there is overlap between the two agencies?

Under state law, OES is uniquely established as part of the Governor's Office. The OES Director is appointed by the Governor and confirmed by the Senate. OES is granted specific duties for emergency preparedness, including training, planning, disaster recovery assistance and hazardous material accident prevention. In addition, many of the Governor's extraordinary emergency powers under the law for mitigating emergency situations are delegated to the Director of OES. In accordance with the Emergency Services Act, OES has statutory responsibility to coordinate the response of all state agencies to any type of disaster.

In many ways prevention, preparedness, response, recovery and mitigation of terrorism events is the same as with all other emergencies and disasters. However, at the same time there are significant distinctions. OES and OHS view this as an opportunity to partner in order to maximize efforts in those common areas, and recognize each other's specific expertise in those areas that are not. OES does not view the roles and responsibilities of the two agencies as "overlap", but rather a necessary partnership to manage the emerging threat of terrorism and homeland security issues, while also maintaining an all-hazards approach to emergency management.

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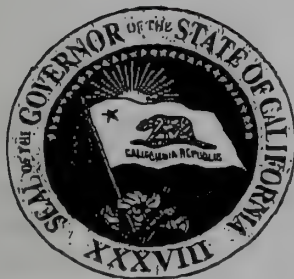
I look forward to meeting you at my confirmation hearing. If you have further questions or need additional information, please do not hesitate to contact me at (916) 845-8510.

Sincerely,



HENRY R. RENTERIA
Director

Enclosure



California's Terrorism Strategy

DRAFT

12/05/03 AM Version

January 2004

Arnold Schwarzenegger
Governor

Rick Martinez, Acting Director
Governor's Office of Homeland Security

PREFACE

While the March 1999 Terrorism Annex to the State Emergency Plan was written as a guide to responding to a terrorist *event*, this document attempts to portray the California's response to the terrorism *threat* in a more general sense. In this document one will find a description of California's approach to prevent, prepare for, respond to and recover from terrorist acts. Every attempt has been made to be consistent with, and compliment, the California Emergency Plan and the existing Terrorism Annex (still in force.) Eventually this document may be the basis for the revision of that plan.

On September 30, 2003, Governor Tom Ridge, the President's Director of Homeland Security, presented the Initial National Response Plan, the federal government's revised planning document. Both that, and this document should be recognized as "works in progress" as organizations, procedures and protocol continue to evolve. When the federal government finalizes further guidance on these issues, this plan will be revised accordingly.

CALIFORNIA'S OBJECTIVES

Our objectives are clear - we must protect the things that mean the most to us, and those things that allow us to enjoy safety and well being:

- Protect our population and way of life
- Protect our critical infrastructure
- Protect our cyber-infrastructure

KEY CONCEPTS

Support of Local Government

Implicit in this plan, and in California's other emergency plans, is the concept that the state and federal governments work in support of local governments, as it relates to terrorism and other emergencies. Local officials remain in charge of activities in their community except in situations where legal authority provides that another level of government takes jurisdiction. (For example, by statute the Federal Bureau of Investigation has criminal jurisdiction in many acts of terrorism.) Even where federal or state jurisdiction exists, this will most often relate to only one aspect of a terrorism situation - locals are ultimately in charge of what occurs in their communities. The Standardized Emergency Management System (SEMS) is followed in terrorism planning, response and recovery, as it is in other emergencies. Within SEMS the concept of Unified Command helps ensure that local authority and perspective remains clear.

Prevention a Key Component

California's Terrorism and Strategy and Plan emphasizes the importance of prevention. California's response and recovery structures have been frequently proven to be effective in past emergencies. In many cases, effective pre-emergency mitigation measures have effectively reduced California's vulnerability to wildfires, earthquake damage, etc. It is equally important to apply this strategy of prevention as it applies to terrorism. This state has taken several measures to enhance the ability to prevent a serious act of terrorism.

Information Sharing and Participation

All levels of government must actively participate in each of the activities outlined in this plan – including prevention. This should also include each discipline within government. Likewise, the private sector has resources, expertise and in most cases a "need to know" what is occurring. Local efforts should involve local businesses and resources. California's plan and strategy emphasize the importance of sharing important information with all levels, all disciplines of government and the private sector. Occasionally some information may be sensitive or legally protected from disclosure to some parties. That notwithstanding, it is important to share information with all parties that could benefit from that information. Alerts, bulletins and other warning information must get to those that can use the information to advantage, hopefully to prevent a terrorist act or attack.

PREVENTION

Increasing Capacity and Capability

California has successfully applied for and received over half a billion dollars in federal grant funding. These funds are being used to build capability and capacity in local and state government. Equipment acquisition, training and plan development continue to be the focus areas for these grant programs. The Office of Homeland Security utilizes staff from the Office of Emergency Services to facilitate the grant process. An outline of current grant programs follows as an annex to this plan.

Vulnerability Assessment and Mitigation

Consistent with federal guidance, each local community must complete a vulnerability and threat assessment on a regular basis. The vulnerability assessment assists the jurisdiction in determining the hazards in the community, including potential targets. The threat assessment assists the jurisdiction in sharing intelligence information as to potential sources of terrorist activity that may be in the area. State agencies support these assessments, while also developing vulnerability and threat information related to state facilities and activities. Funding from terrorism grants is contingent on regular completion of this process by state and local entities.

Criminal Intelligence and Interdiction

The first line of defense in terms of criminal intelligence and interdiction is at the local law enforcement level. Significant prevention resources in terms of funding have been provided to local law enforcement agencies to enhance this ability. Other activities and programs have been developed to aid in this process – again in support of local government.

- The California State Warning Center [CSWC] plays a key role in alerting, activating and notifications related to terrorism. The CSWC is housed at the headquarters of the Governor's Office of Emergency Services, and is jointly staffed by personnel from the California Highway Patrol and OES. It also provides a capability to local law enforcement when there is a need to rapidly access federal records and databases. Through dedicated assignment of an analyst from the Federal Bureau of Investigation, a local law enforcement agency can request a check of various federal databases and indices when they have a suspicious subject or situation at hand. Additional information can be found in the appropriate annex to this plan.
- The California Anti-Terrorism Information Center [CATIC] is operated by the California Department of Justice. This center provides information and analytical resources related to individuals, groups, trends and methods related to terrorism, and serves as another key resource for local law enforcement agencies seeking leads and information related to terrorism. CATIC, in partnership with the California Commission on Peace Officer Standards and Training [POST] provides training for local law enforcement personnel on terrorism related issues.

- Each of the four FBI Field Divisions in California (Sacramento, San Francisco, Los Angeles and San Diego) has established Joint Terrorism Task Forces [JTTF]. These task forces include representatives not just of the FBI, but of various other federal, state and local law enforcement agencies as well. Together they conduct investigations, develop evidence and assist other agencies in accurately gauging threat and vulnerability assessments.
- The California Highway Patrol [CHP] plays a key role in the prevention of terrorism. The Commissioner of the Highway Patrol serves as the Governor's Intelligence Officer, and personnel of the CHP are responsible for the protection of the Governor and other Constitutional Officers. Additionally the protective responsibilities of the CHP extend to state property and facilities, and in a larger sense, the California's critical infrastructure.
- The Governor's Office of Emergency Services' Law Enforcement Branch maintains California Law Enforcement Mutual Aid System. Through this network, any California law enforcement agency can receive personnel and assets necessary to respond to any emergency – including an act of terrorism. Additionally, personnel from this branch assist local law enforcement in planning for emergencies and special events.

Terrorism Early Warning Groups

Terrorism Early Warning Groups [TEW] are locally based information sharing groups. The TEW gathers intelligence not only from law enforcement agencies, but also from firefighters, private industry, chemical and biological sensors, public health surveillance, satellite imagery, and vulnerability assessments of major terrorist targets. Its goal is to provide actionable intelligence, not vague warnings, on upcoming terrorist attacks.

State Strategic Committee on Terrorism

California has long had a statewide strategy body providing advice on terrorism issues. Since 1997 the State Strategic Committee on Terrorism [SSCOT] has provided an opportunity and venue for federal, state and local jurisdictions to share information and provide advice to the Governor.

The SSCOT is California's primary statewide terrorism planning group. The SSCOT focuses on effective statewide prevention, preparedness, mitigation, response, and recovery strategies.

The role of the SSCOT is to:

- Raise issues for consideration by the Director of California OHS and the Governor;
- Review and comment on components, actions and issues related to California's statewide terrorism preparedness strategy;
- Share terrorism planning, strategy and resource information among and between its members;
- Review and comment on effective use of terrorism grant funding;
- Review and comment on threat assessments involving California targets, and recommendation of mitigation, prevention, response and recovery strategies related to those targets;
- Recognize the extraordinary technology and capabilities of California industry;
- Provide a forum for general coordination, information and situational intelligence exchange among federal, state and local entities.

Training and Exercises

The Emergency Response Training Advisory Committee [ERTAC] was established by legislation in 2003. It will recommend criteria for terrorism awareness curriculum and content for training of state and local emergency response personnel and volunteers. The Committee will also make recommendations on training needs for first responders. ERTAC has representatives from various state and local emergency response organizations.

Additionally, the California Office of Homeland Security has tasked the California National Guard with the preparation and execution of statewide exercises related to terrorism. Lastly, the Governor's Office of Emergency Services has developed and implemented an electronic calendar so that local agencies can post their training and exercises. This serves two purposes, in that it promotes opportunities to share knowledge, as well as watch for conflicts that could tax resources already committed to other training or exercises.

CITIZEN PREPAREDNESS

In response to the attacks of September 11, 2001, President Bush initiated the USA Freedom Corps program, a major component of which is Citizen Corps. Citizen Corps' primary focus is help coordinate volunteer activities that will make the nation's communities safer, stronger, and better prepared to respond to any emergency situation, including acts of terrorism. It provides opportunities for people to participate in a range of measures to make their families, their homes, and their communities safer from the threats of crime, terrorism, and disasters of all kinds. Governor Gray Davis designated the Governor's Office on Service and Volunteerism (GO SERV) as the lead state agency to institute Citizen Corps into California's communities. GO SERV was selected because for the past nine years it has been the lead state agency for the administration of AmeriCorps community service grants in California. In November of 2002, GO SERV began distributing local Citizen Corps grants to each state Operational Area (County) and the Tribal Nations. These grants were designated as seed money for the Operational Areas to begin the process of creating local citizen corps councils as collaborative networks to implement local coordination of volunteers. The programs outlined below encompass the statewide efforts to engage citizens within their neighborhoods and with the first responder community to enhance homeland security statewide.

Citizen Corps Councils

Citizen Corps Councils serve as the intersection of first responder and emergency management agencies, community- and faith-based organizations, volunteer programs, and community members. Councils coordinate community preparedness and safety programs while working with a variety of organizational partners. Councils integrate the various Citizen Corps programs with law, fire, and other emergency response programs to ensure that communities work collaboratively in order to meet local emergency needs as they arise. While each neighborhood, community, and region will determine its own Citizen Corps Council membership, the primary qualification to participate in the Council is the commitment to educate the public on safety, to help citizens take an active role in protecting themselves from harm, to teach citizens what to do in the event of a crisis, and to expand volunteer opportunities that will make the community safer.

Community Emergency Response Team (CERT) Program

The Community Emergency Response Team (CERT) program helps train people to be better prepared to respond to emergency situations in their communities. CERT members provide critical support to first responders, such as police/sheriff and fire fighters during an emergency. CERT volunteers assist affected people, organize spontaneous volunteers, and collect disaster information to support emergency response efforts. CERT training includes disaster preparedness, disaster fire suppression, basic disaster medical operations, and light search and rescue.

Medical Reserve Corps

Medical Reserve Corps (MRC) coordinates the skills of practicing and retired physicians, nurses and other health professionals, as well as citizens interested in health issues, who are eager to volunteer to address their community's ongoing public health needs and to help their community during large-scale emergency situations. These local groups assist neighborhoods and first responders with medical needs surrounding emergency planning and homeland security.

RESPONSE

Alerting and Information Sharing

The sharing of information and intelligence in a timely and useful manner with a variety of public safety disciplines is critical. Effective communications can help to prevent, deter, and efficiently respond to a terrorist event. Furthermore, it is essential to provide guidance to government agencies regarding the threat of terrorism and the recommended protective measures.

The California State Warning Center, the State Threat Advisory Committee and the Homeland Security Advisory System are among the many methods by which the state can provide terrorist information, alert notifications, and an established forum to discuss threat consequences and mitigation measures. The Office of Homeland Security is working to develop or adopt a system for electronic information sharing among and between government and key private organizations.

California State Warning Center (CSWC)

The mission of the CSWC is to be a signal and information conduit for the Governor's Office and other state constitutional officers, and a central information hub for statewide emergency communications. Under the command and direction of the CHP, sworn officers, the FBI, and civilian OES communication personnel staff the CSWC. The CSWC provides service to all California law enforcement agencies and their officers 24 hours a day, 365 days a year. Additionally, the CSWC will provide means by which fire service agencies can communicate intelligence information to the FBI.

Current functions of CSWC include:

- Carries out critical incident notifications, warnings, and tactical alerts to all involved agencies and organizations.
- Conducts computer crime incident notifications.
- Conducts homeland security incident notifications.
- Conducts Governor and executive staff notifications.

State Threat Advisory Committee (S-TAC)

The California State Threat Advisory Committee (S-TAC) is an essential component of the State Strategic Committee on Terrorism (SSCOT). S-TAC was established to provide an ongoing capability for rapid assessment of information regarding the potential impacts from specific terrorist's threats or events in California. This role remains a critical element in the ability of the state to address credible terrorists threats and incidents. S-TAC has proven its value in providing a means by which key agency representatives can contribute to a consensus decision as to what a specific incident means to the State of California. S-TAC assessments are communicated to the Governor of the State of California.

The State Threat Advisory Committee is comprised of federal and state law enforcement agencies in addition to other public safety and emergency medical/health representatives. S-TAC meetings may invite consulting agencies into discussions when the threat appears to involve issues within their expertise and jurisdiction.

S-TAC conference calls are not a substitute for the technical threat assessments conducted by primary law enforcement agencies such as FBI, USSS and CHP's Protective Services Division. S-TAC's multi-disciplinary objective is to take information from a variety of sources (including the above) and arrive at a consensus recommendation to the Governor, through the Office of Homeland Security. This recommendation has three components:

- What has occurred, or is threatened to occur?
- What are the consequences of this action?
- What does this mean for the State of California?

As a result of the S-TAC information, the Governor can direct actions necessary to protect Californians, and assist local governments in doing so.

Homeland Security Advisory System

As memorialized in Homeland Security Presidential Directive 3, the Federal Government has implemented the Homeland Security Advisory System to provide a comprehensive and effective means to disseminate information regarding the risk of terrorist acts. The system provides warnings in the form of a set of graduated "Threat Conditions" that would increase as the risk of the threat increases. The State of California has developed a version specifically focusing on state agencies. At each Threat Condition, State departments and agencies would implement a corresponding set of "Protective Measures" to further reduce vulnerability or increase response capability during a period of heightened alert. This document describes the Threat Conditions and provides guidance in creating and implementing the Protective Measures for State departments and agencies. It was compiled from existing, available information as well as input from the State Strategic Committee on Terrorism.

Each State department and agency is responsible for determining what actions and plans are most appropriate for that agency's Protective Measures. The threat advisory guidelines should be used as a catalyst for the review, refinement, and modification of existing emergency and business resumption plans, as needed. Assistance is available from a number of Federal, State, and local agencies.

Standardized Emergency Management System (SEMS)

Terrorist incidents create a unique environment in which to coordinate emergency response. Local public safety responders are typically the first on scene during an actual incident and local government has primary responsibility for protecting public health and safety. The local first response should be conducted under California's Standardized Emergency Management System (SEMS) that forms the basis of California's concept of operations for managing any kind of emergency or disaster, including terrorist incidents. Upon determination that the incident is an act of terrorism, the federal Department of Homeland Security, specifically the FBI, will establish the lead in the criminal investigation of the event (Presidential Directive 39). Local and state authorities always maintain control of their response resources and continue to operate utilizing SEMS.

The State of California has developed the Standardized Emergency Management System (SEMS) for responding to and managing multi-agency and/or multi-jurisdictional emergencies and disasters, including terrorist incidents, within California. SEMS facilitates priority setting, interagency cooperation, and the efficient flow of resources and information.

SEMS incorporates the Incident Command System (ICS), multi-agency or interagency coordination, the California Master Mutual Aid Agreement and associated discipline-specific mutual aid sub-systems, and the Operational Area (OA) concept. These components operate at all SEMS levels and within all SEMS functions. SEMS is compatible with the U.S. Department of Homeland Security's *Initial National Response Plan*.

The five SEMS organization levels, together with the private sector, are also collectively referred to as the California Emergency Organization. This organization represents all resources available within the state that may be applied to disaster response and recovery. It operates from established Emergency Operations Centers (EOCs) at all levels of government, as well as in many businesses and industries. The goal is to support emergency activities that protect life, property, and the environment while integrating the activities of the federal response organization. In addition, a number of discipline-specific mutual aid sub-systems have been developed in California to support the emergency management structure

State Assistance

Response and recovery assistance should follow the mutual aid system component of SEMS whereby requests for assistance originate at the lowest level of government and are progressively forwarded to the next level until filled. If the Governor proclaims a State of Emergency because of the incident, all resources of the state may be directed to the response. The duties and responsibilities state agencies may be assigned are described in the State Emergency Plan and each agency's administrative order.

State agencies with mandated responsibilities for emergency response will follow their established plans and procedures. During complex emergencies involving multiple jurisdictions and agencies, coordination of resources can be achieved through the use of liaison officers, agency representatives, and Unified Command.

Key Role of Healthcare, Emergency Medical Services and Public Health System Providers

The need for enhanced preparedness, planning and response to protect California's population from the acts or threats of terrorism is the responsibility of all disciplines including the healthcare, EMS and public health system providers. The responsibility for disaster medical and public/environmental health management rests with the California Emergency Medical Services (EMS) Authority and the Department of Health Services (DHS). Their roles are replicated at the county level through local health departments and EMS agencies. Recognition of the essentially private and not-for-profit ownership of the vast majority of medical and health resources in California and the nation necessitates the need for unique partnerships between these government agencies and the health care industry. Together, coordinated and integrated preparedness and response plans including mutual aid and cooperative assistance support, training, logistics support and joint operations and management response organizations are in-place or under development.

Grant funds from the Federal Centers for Disease Control (CDC), Health Resources and Services Administration (HRSA) and Office of Domestic Preparedness are being used to build capacity to respond to bioterrorism and other CBRNE threats. DHS and local public health departments are improving communicable disease surveillance programs and laboratory capabilities; implementing statewide electronic alerting, notification and risk communication systems; and, developing training programs for public health professionals. The EMS Authority and local EMS agencies are building hospital and clinic mass casualty surge capacity; improving decontamination and staff personal protection capacities; providing updated hospital/EMS communication systems; and developing training programs for healthcare providers. Multi-discipline committees consisting of government agencies and healthcare partners meet to make state and local funding decisions.

The state along with local health departments and EMS agencies are strengthening disaster medical and health management and integration statewide by extending SEMS principles into the private and not-for-profit sectors. The majority of California hospitals now utilize the Hospital Emergency Incident Command System developed by the EMS Authority. A clinic version will be developed in the coming year. Ambulance strike teams are being assembled with EMT-Paramedics receiving ICS training. Private and not-for-profit health care personnel participate in California's Disaster Medical Assistance Teams and field Management Support Team and conduct activities using ICS. Hospitals, clinics, blood banks and private ambulance providers participate along with government agencies and public safety departments in the annual statewide disaster medical and health exercise. This exercise has focused on the response to terrorism scenarios in the last three years. All exercise activities are conducted under SEMS.

INITIAL DRAFT - 7/16/2004, 5:06 PM
STATE TERRORISM ANNEX TO EMERGENCY PLAN
2003 REVISION
Not for Release or Circulation

205

Specialized Resources

To Be Completed

- CSTs
- ???

State Coordination of Federal Resources

To Be Completed.

- Integration of JOC structure
- Integration of HSPD IRP structure
- Charts in appendix

RECOVERY

Under Revision

APPENDICES

1. Grant Outline - to be developed by DAD/Grants Management
2. SSCOT Organization Chart - Done
3. California State Agency HSAS - To be Pasted From File
4. Response to a California Incident - Done
5. Incident Outline (Walk through an incident - who does what) - To be drafted by LEB
6. Definitions/Glossary - to be developed

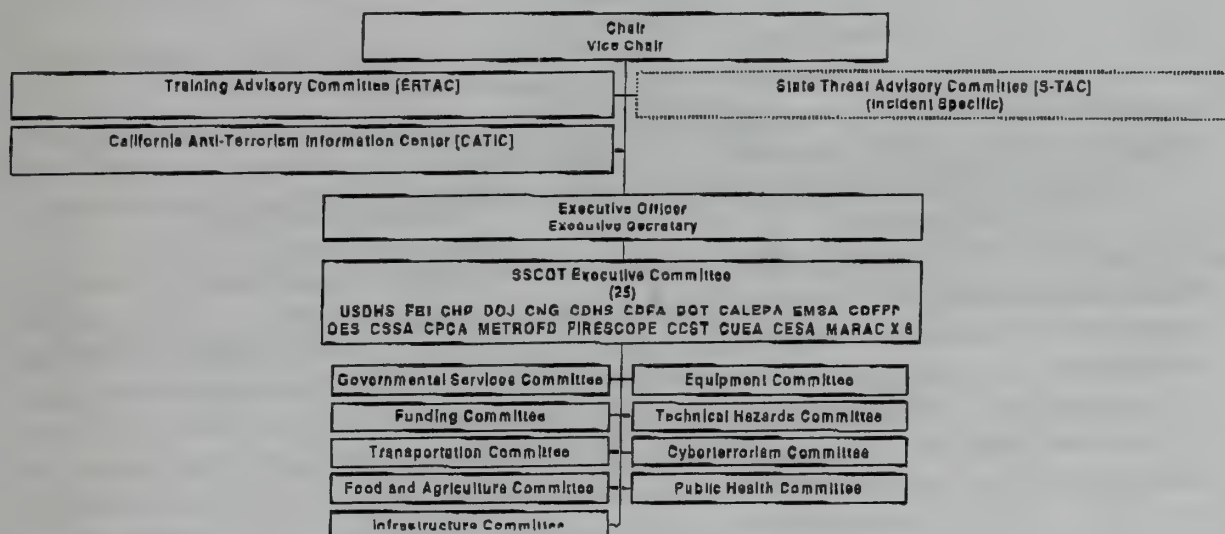
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 STATE TERRORISM ANNEX TO EMERGENCY PLAN
 2003 REVISION
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Appendix ____

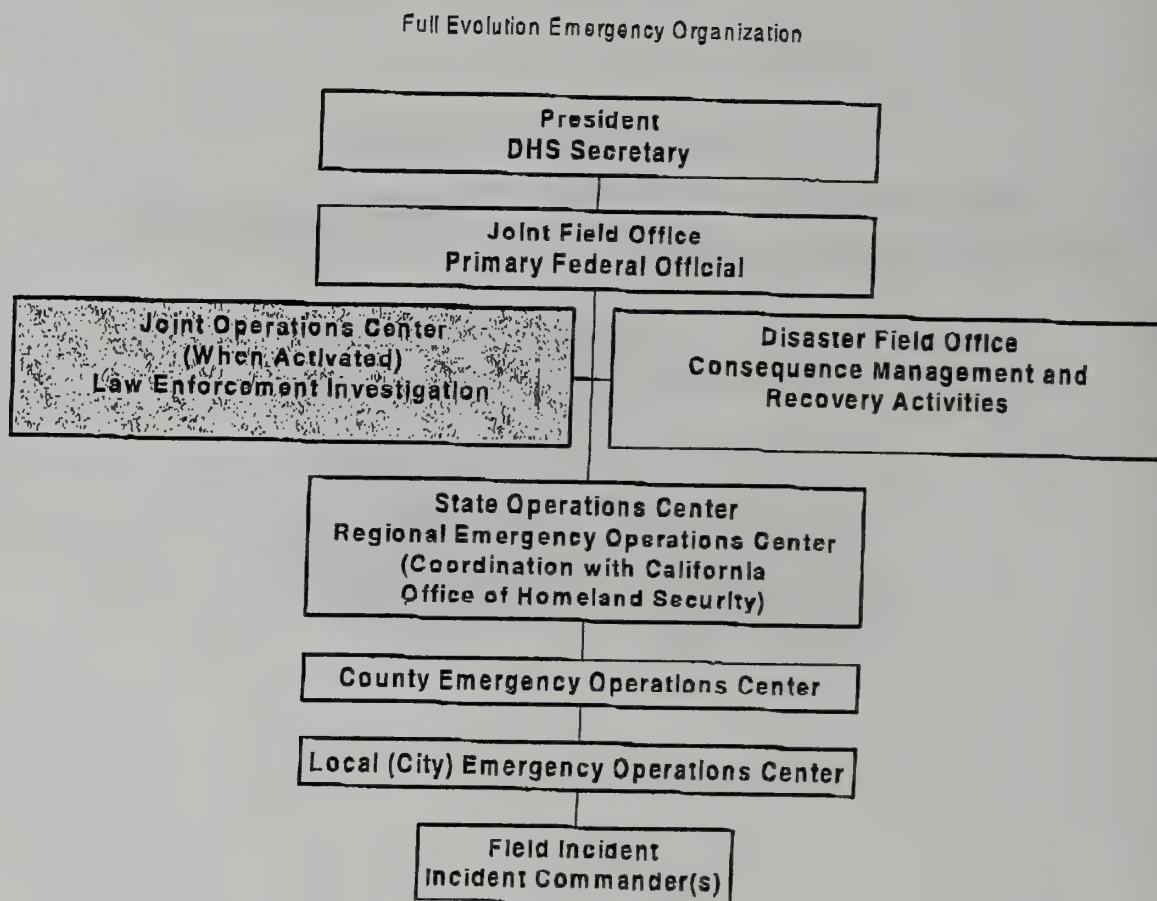
SSCOT Organization Chart

REVISED SSCOT ORGANIZATION
 2003



Appendix _____

Incident Management Organization



State of California—Health and Human Services Agency
Department of Health Services

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SANDRA SHEWRY
Director



ARNOLD SCHWARZENEGGER
Governor

August 11, 2004

The Honorable John Burton
President Pro Tem of the Senate
Chair, Senate Rules Committee
Capitol Room 420
Sacramento, CA 95814

Dear Senator Burton:

This letter responds to your request for a brief statement of my goals as Director of the California Department of Health Services (CDHS). This letter supplements my June 18, 2004 response to questions posed by the Senate Rules Committee.

My primary goal is to advance CDHS' mission to protect and improve the health of all Californians. The work of CDHS through our public health and licensing functions touches the lives of every Californian. We fund health care services for California's most vulnerable and underserved residents. We administer programs that require expenditure of over \$36 billion in state, federal and special funds. Our mission statement is my touchstone and the primary metric I use to determine the most important uses of my time during my tenure as the leader of this large, multifaceted organization.

I have identified four priority programmatic and organizational areas in which to focus my efforts to advance our mission of protecting and improving the health of all Californians.

First is my responsibility to assure that we at CDHS have fulfilled our responsibility to be ready to respond to public health emergencies – be they caused by nature or humans. CDHS has a leadership role in ensuring that core public health functions – disease surveillance, epidemiologic investigation, laboratory diagnostics, health risk communications, prevention and education – are fully integrated into California's homeland security and emergency planning. We are taking steps to ensure that California's basic public health infrastructure has the capacity to respond to public health emergencies. The public expects this from its state government. One of my primary goals is to be sure our public health infrastructure is in place and is coordinated with local health departments and other local, state, and national resources.

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Senator John Burton
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Second, I am committed to maintaining California's leadership role in combating the leading causes of death and disability. Just as we did in the area of tobacco control, California can lead the nation in addressing the nutrition and inactivity crisis. Long-standing patterns of unhealthy eating and inadequate physical activity have led to a national obesity epidemic that equals or exceeds the public health challenge presented by tobacco. The combined effects of diet and inactivity are now the second leading cause of death in the United States next to tobacco-related illnesses. If current trends continue, one-third of all children born today will be diagnosed with Type 2, formerly called "adult onset," diabetes. This means an average reduction of 15 years of life and the suffering associated with the disease – possible blindness, kidney failure, and amputations, among others. These increases in unnecessary suffering, disability, and the attendant costs associated with treating these health conditions can be avoided. The solutions will come from across the policy arena and will involve communities, institutions, and individuals. It is my goal that CDHS serve as the focal point for the state's efforts in this area.

Third, I am leading the Administration's efforts to assure that the Medi-Cal program offers maximum value to the 6.7 million Californians who receive health care services through the program, and to the taxpayers who fund the program. The magnitude of the Medi-Cal program budget, \$33 billion in fiscal year 2004/05, and its impact on the General Fund means that in robust or challenging fiscal times, the program will receive close scrutiny. As the Administration develops the Medi-Cal redesign proposal, my goal is to strengthen the long-term viability of the program. I believe the long-term viability of the Medi-Cal program is promoted by demonstrating that it offers maximum value to both beneficiaries and taxpayers. Maximizing value means delivering high quality health care in the most cost effective settings. Maximizing value means emphasizing prevention and early intervention. It means utilizing delivery systems that are accountable for improving health outcomes. It means having systems in place to assure that the program does not pay for services that were not provided. It means assuring that eligible people know about the program. And, maximizing value means asking people enrolled in the program to develop a sense of personal responsibility about their own health.

Fourth, it is my goal that we improve the Department's role as a business partner. CDHS licenses health facilities and health workers. We collect fees. We verify the safety of water and food products. We enter into over 3,000 contracts each year. We set policy through regulations and manuals. We buy health coverage from individual providers, hospitals, clinics, and health plans. We issue health warnings and encourage positive behaviors. In each of these roles, we have the responsibility to be clear, accurate, and timely in our dealings with our business partners. I am

Senator John Burton
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committed to finding ways to improve our performance as a business partner. This goal directly relates to our ability to advance the mission of CDHS. In many cases, we at CDHS advance our mission through the work of others. To the extent we are a better business partner, those providing the service to the public will be better able to protect and improve the health of all Californians.

Thank you for this opportunity to outline my goals for CDHS. I look forward to continuing to lead the Department in the coming years.

Sincerely,



Sandra Shewry
Director



June 18, 2004

Honorable John Burton
 Attention: Nettie Sabelhaus
 Senate Rules Committee
 State Capitol, Room 420
 Sacramento, CA 95814

Dear Senator Burton:

This letter provides responses to your letter of May 28, 2004, with regard to my appointment as Director of the Department of Health Services. I am available at your convenience to provide additional information regarding my background and qualifications for the position.

REDESIGN OF MEDI-CAL

The Administration has proposed a major restructuring of the state's Medi-Cal program. The stated intent of the redesign is to maintain access and reduce costs. Proposals could include changing eligibility standards, tiering benefit package premiums and co-payments; changing optional benefits and mandating elderly/disabled beneficiaries to join managed care plans. The Administration held a series of stakeholder meetings to engage stakeholders, constituents and the Legislature in the design of the changes. Originally, the Administration had proposed that the Redesign be considered as part of the adoption of the Budget by the Legislature. At the May Revision, the Administration indicated it had delayed the timeline to the Legislature until August 2.

1. Please summarize the Administration's reasons for delaying the Redesign.

Medi-Cal, the State's version of the federal Medicaid program, is an essential source of health care for California's most vulnerable residents – promoting the health and well being of low-income children, supporting the ability of their parents to become self-sufficient, and providing critical services to seniors and disabled persons. Today, over 6.7 million low-income Californians (15.3 percent of the State's population) rely on Medi-Cal for health care services.

Medi-Cal's significance to the well-being of nearly 7 million Californians, its impact on health care financing and delivery systems, and its significance to the State budget all

JUN 21 2004

speak to the need to carefully review and consider all available input and expertise before moving forward with significant and, in some cases, far-reaching initiatives.

From the beginning of February through the end of April, the Administration partnered with the California Health Care Foundation and The California Endowment to carry out an extensive stakeholder process to obtain input on the Governor's proposal to redesign the Medi-Cal program. The purpose of this stakeholder effort was to inform the Administration's decision-making process with regard to the makeup of the final redesign proposal. By the end of this process, over 600 stakeholders had participated in an effort that included 21 separate work group meetings in Sacramento and Los Angeles.

The Administration remains committed to moving forward with a comprehensive redesign of the Medi-Cal program. The delay in submission of a Redesign Plan reflects the Administration's recognition of the magnitude of this undertaking, the importance of fully considering input, and provides us the opportunity to more fully explore and refine our submission prior to submission to the Legislature.

2. Did your view of the Redesign change based on the stakeholder meetings? What were the five most important things you learned from the stakeholder meetings?

Two overriding goals have guided the Administration's redesign efforts:

- Maintain current eligibility of low-income populations.
- Contain costs and maximize efficiencies.

In achieving these goals, the Administration's efforts seek to advance five principal objectives. While consistent with the objectives articulated in the Governor's January 2004 Budget, the objectives have been modified to reflect the Administration's evolving views, as informed by the stakeholder process and an increased understanding of relevant policy issues. These objectives are as follows:

- Expand the use of organized systems of care that increase access, improve outcomes, and contain costs.
- Revise the Medi-Cal eligibility and enrollment process to make it more efficient and improve customer service.
- Tailor benefits to the needs of distinct Medi-Cal populations.
- Incorporate beneficiary cost sharing that promotes personal ownership and responsibility, aligns Medi-Cal with other publicly funded health programs, and encourages appropriate utilization of services.
- Stabilize financing of the State's safety net to ensure that hospitals have the resources to care for low-income and uninsured Californians.

Input received during the stakeholder process has influenced the Administration's thinking with regard to the manner by which California can and should redesign the Medi-Cal program. Significant learnings include:

- Medi-Cal's eligibility rules are complex and sometimes cumbersome. The workgroups explored concepts for simplifying eligibility. Increased use of technology can simplify and expedite enrollment and eligibility determinations.

Simplifying eligibility standards in such a way that makes the application process user-friendly but does not impact enrollment levels is easier said than done.

- Managed care has been a success in increasing access to care and providing measurable outcomes for Medi-Cal beneficiaries. Options exist for expanding managed care to a broader range of beneficiaries in more geographic areas.
- Decreases in the number of Medi-Cal fee-for-service hospital stays in public hospitals may destabilize existing hospital funding arrangements. These arrangements provide funding for the costs of care to indigent persons.
- County Organized Health Systems currently provide managed care services to seniors and persons with disabilities. Medi-Cal seniors and person with disabilities report satisfaction with these plans.
- Seniors and disabled persons are seeking reforms to Medi-Cal that enhance their ability to receive community based care and to receive services in the least restrictive environment.

3. Since you have completed the stakeholder meetings, what process are you using to gather further input into the Redesign?

The stakeholder process -- concluded in late April -- produced an enormous amount of input that the Administration is reviewing. Our current efforts are focused on reviewing the input already received and taking it into consideration as we develop a specific redesign proposal to submit to the Legislature. In addition, stakeholders continue to submit to the Department -- via electronic communication, in written correspondence, and through direct meetings -- additional ideas, data, and suggestions. Many stakeholders expressed the sentiment that the input process would be more productive if the Administration presented detailed proposals to which they and the legislature could react. The Administration is on track to do just that -- publicly present a detailed proposal in August for review and consideration by all interested stakeholders and the Legislature.

4. What steps do you plan to take to facilitate the Legislature's evaluation of the Redesign given that it will be submitted a month before the end of the legislative session?

We have taken an important first step in facilitating the Legislature's evaluation of the Redesign by de-linking legislative enactment of any redesign proposal from the annual budget process. Requiring the Legislature to grapple with Medi-Cal Redesign while simultaneously dealing with the very significant task of enacting the budget, likely would have prevented the desired focus on the complex issues involved in any effort to restructure a program the size of Medi-Cal. By postponing legislative deliberation until after enactment of the budget, we believe both the Legislature and stakeholders will have a better opportunity to consider and to debate the proposals that the Administration presents.

Using such mechanisms as policy committees, a conference committee and/or workgroups, we intend to work closely with Legislators, staff and other interested parties on Redesign of the Medi-Cal Program.

MRMIB EXPERIENCE

As Executive Director of the California Managed Risk Medical Insurance Board, you oversaw the development and expansion of the Healthy Families Program (HFP), which provides health insurance to children in low-income families. The HFP has been highly praised for its customer friendly approach and simple application process.

- 1. What lessons do you bring from your experience with the Healthy Families program and how are you applying them to both the current management of the Medi-Cal program as well as the redesign effort?**

The primary lesson I learned during my tenure as Executive Director of the Managed Risk Medical Insurance Board is that government can and does make a positive contribution in the lives of Californians. I learned that the state work force is talented and dedicated. I learned that advocacy groups, providers, health plans, business interests, and policy makers all play a vital role in creating programs that are responsive to the needs of Californians. I learned that government can develop and implement programs on-time and on-budget. I learned that by emphasizing our common goals we achieve more than if we each cling to our opening positions, attitudes, and beliefs.

I bring a commitment to positive, achievement focused, participatory government to my new role at the Department of Health Services. I am applying this commitment through use of an open management style, interaction with stakeholders, and attention to improving the business practices of the Department. The challenges and opportunities facing the Department of Health Services are enormous and humbling. I am addressing these opportunities through focusing my work on seeking ways to best advance the Department's mission to improve the health status of Californians.

PHARMACEUTICAL PURCHASING

A major cost driver for Medi-Cal, and for all health systems, is the very high cost of pharmaceutical products. Other states have initiated various efforts to further reduce the costs of drugs, improve medical efficacy, and expand eligibility for negotiated drug discounts beyond Medi-Cal beneficiaries. The California Legislature is considering a proposal to import lower cost drugs from Canada.

- 1. Many policy and advocacy groups have questioned the effectiveness of California's Medi-Cal drug purchasing system. Will you reevaluate California's existing policy on the supplemental rebate purchasing system?**

Due to its importance in meeting the health care needs of Medi-Cal patients and its role in overall program costs, the Medi-Cal pharmaceutical program warrants continual evaluation and examination. I am committed to a systematic and on-going review. It is my intent to closely look at the Medi-Cal drug program to determine if we are using the most cost effective methods to obtain prescription drugs for Medi-Cal patients. I have spent considerable time with staff and stakeholders discussing how to address the rising cost of drugs for Medi-Cal, other DHS programs, and the uninsured.

Medi-Cal is recognized as one of, if not the most, cost effective Medicaid health care delivery system in the nation. The program operates one of the nation's most cost

effective drug programs. The Department's aggressive management of the Medi-Cal fee-for-service drug program is expected to result in a significant reduction in expenditures in fiscal year 04/05 as compared to expenditures in fiscal year 03/04. This decrease will occur in the context of a nationwide increase in drug costs and increased Medi-Cal caseload for persons most likely to need pharmaceutical products (seniors and the disabled).

The Medi-Cal program operates a pharmacy program that serves as a model for other states. California's estimate of **supplemental drug rebates** (rebates that are in addition to the federally mandated drug rebate) for fiscal year 2003/04 is in excess of \$382 million. These rebates are negotiated and collected pursuant to the supplemental drug rebate - prior authorization program, and the Medi-Cal List of Contract Drugs (List). Drugs on the List typically do not require prior authorization. Providers are more likely to prescribe a "listed" drug, knowing that it is available without prior authorization. The Department has entered into contracts for supplemental rebates with manufacturers of many of the brand name drugs on the List. The supplemental rebate program is an example of California's leadership on drug program cost controls. Michigan, another state considered to be a national leader for its work in developing a multi-state drug purchasing collaborative, estimates savings from their supplemental rebate program of 1%. In 2004/05, California's Medi-Cal Program will reduce its drug expenditures by over 10% through the use of supplemental rebates.

While Medi-Cal has much to be proud of in management of its drug program, there are areas where the program can improve. I am committed to making sure improvements are implemented. These improvements include:

- **Implementing pharmacy reimbursement reforms** that will base reimbursement on the provider's actual acquisition cost of a drug plus a reasonable dispensing fee. We have worked closely with the Attorney General on obtaining accurate drug pricing upon which to base a fair system of pharmacy reimbursement. The Attorney General has identified pharmaceutical pricing as an area of concern with regard to fraud. The Attorney General is concerned that the wholesale prices reported by manufacturers may not reflect actual prices offered to pharmacies. The Governor's May Revise proposes to resolve this problem by changing reimbursement rates to reflect amounts that are closer to or at the pharmacy providers' cost to acquire a drug and also the providers' cost to dispense a drug. The Legislature's adoption of this change will allow Medi-Cal to increase its cost effectiveness.
- **Making generic drugs more cost effective for the program.** Medi-Cal recognizes the need to make generic drugs more cost effective and has two distinct plans for doing so. First, Medi-Cal will expand the Maximum Allowable Ingredient Cost (MAIC) program to appropriately lower the reimbursement of generic drugs. In the past, the MAIC was based on Medi-Cal's standard reimbursement rate, i.e. Average Wholesale Price minus 5%. This resulted in very few MAIC rates that were below the rates achieved for brand name drugs through the supplemental rebate program. Medi-Cal is now in the process of implementing a system in which surveys of wholesale prices (prices charged to pharmacies by drug wholesalers), will be used to more accurately and effectively set the reimbursement rate for generic drugs.

Second, Medi-Cal is working with the manufacturers of generic drugs to obtain supplemental rebates. Additional savings can occur by limiting the number of generic manufacturers that can be used when filling a prescription. By negotiating additional rebates, Medi-Cal will be able to limit the drugs dispensed to the lowest cost generic(s). This will make generics the cheaper option for Medi-Cal and allow the State to obtain greater savings. This summer, Medi-Cal will announce the implementation of this approach for one category of drugs. This approach will significantly reduce State expenditures in this drug category.

- **Ensuring that beneficiaries use the most cost effective drug for their health condition.** In October 2004, the Department will implement a new "step care" therapy program. This approach implements recognized therapy protocols that require the appropriate use of drugs at the various levels of therapy. It will also allow for the use of the lowest cost drug(s) at each step, when a choice of equivalent drugs exists.
 - **Implementing therapeutic category reviews to ensure that drugs to meet the medical needs of beneficiaries are available at the lowest cost.** Therapeutic reviews use an evidence-based analysis to determine which drugs within a specific treatment category should be the drugs of choice for the Medi-Cal program. Medi-Cal lowers the cost of these drugs by having manufacturers compete against each other for the Medi-Cal program's drug coverage. These reviews are a critical piece of determining which drugs (brand or generic) are available at each level in a step therapy protocol. The Department will complete four therapeutic reviews this year and anticipates completing 3 to 4 reviews annually
 - **Resolving outstanding uncollected drug rebates.** This has been the subject of much discussion and some misunderstanding. As noted above, DHS' supplemental drug rebate program is an important component and a resounding success in our cost containment strategy. The outstanding rebates are from prior year drug purchases – some dating from the 1990s. I am committed to having this issue resolved by June 30, 2005. We will collect every dollar owed the State from these old rebates.
2. **Do you believe that an evidence-based restriction on drug purchases is an efficient method of treating patients?**

It is vital that the Department use the best science to determine which drugs should be covered in publicly financed health coverage programs. Public funds should be used to pay for the most cost effective treatments.

Medi-Cal has employed an evidence-based approach to the maintenance of the Medi-Cal List of Contract Drugs (List) since 1990. Medi-Cal evaluates drugs for inclusion on the List using five criteria - essential need, efficacy, safety, misuse potential, and cost. These factors are rooted in an evidence-based approach. Medi-Cal pharmaceutical consultants review all available information (which can include unpublished studies that are in progress) to determine how various drugs compare in the treatment of a particular disease. This review allows Medi-Cal to provide, generally without prior authorization, drug therapy that meets Medi-Cal beneficiary needs, while holding down costs. Drugs not added to the List are still available as benefits pursuant to prior authorization.

The Department is joining a multi state collaborative effort to better refine the evidence used in drug coverage determinations. This effort will allow the Department to obtain additional evidence based drug evaluations from recognized research entities that can be used in Medi-Cal's evaluation of which drugs should be on the Medi-Cal List of contract drugs.

3. Are there other drug purchasing arrangements that would be beneficial to California?

The Department has explored various drug purchasing collaboratives. The Department will be participating in the multi-state evidence based collaborative noted above. This participation will enhance the evidence that the Department will have available to make drug purchasing decisions. There is a Medicaid multi-state drug purchasing collaborative that the Department is monitoring. The collaborative will reduce the states drug costs by one percent by obtaining supplemental rebates for participating states. However, joining this collaborative would not save the State money because Medi-Cal already negotiates supplemental rebates in excess of ten percent.

Establishing purchasing arrangements with other California agencies is challenging because Medi-Cal operates as a third party payer and other state agencies function as pharmacy providers – directly purchasing and dispensing pharmaceutical products. Federal law provides Medicaid programs with “Best Price” assurances. This law assures that any Medicaid agency can receive the best price a manufacturer offers a non-Medicaid purchaser. If Medi-Cal's supplemental rebates were provided to other state entities, manufacturers would be required to offer the same level of rebate to all Medicaid programs. It is believed that this would reduce manufacturers' willingness to provide significant rebates to California's Medicaid program.

LOW-LEVEL RADIOACTIVE WASTE

In September 2002, SB 2065 was signed into law. This legislation directs the Department of Health Services to inventory California's 2000 licensed low-level radioactive waste (LLRW) generators. The law's provisions have never been implemented. The data necessary to develop effective radioactive waste policy is unavailable and that radioactive waste is being stored in inappropriate and insecure sites.

1. What actions can be taken to diminish the threat of accidental exposure to radiation or the use of LLRW by terrorists pending implementation of SB 2065.

One important way to diminish the threat of accidental exposure to radiation or the use of LLRW by terrorists is to ensure the State maintains an effective and comprehensive radioactive material licensing and inspection program. The Department's Radiologic Health Branch (RHB) has statutory responsibility for the safe use of radioactive materials and ionizing radiation in California. The federal Nuclear Regulatory Commission (NRC) has nationwide responsibility for the regulation of radioactive materials. California is one of 31 states that have accepted delegated responsibility for conducting these programs as an “agreement state” with the NRC.

RHB reviews security of radioactive materials including the handling and storage of LLRW during inspections of the approximately 2,100 licensed facilities in the state.

These inspections occur every 1 to 5 years based on risk. Licensed facilities include academic, manufacturing, industrial, biotechnology, medical, research and other entities. License provisions include specific safety and security practices that the Licensees are required to follow. RHB conducts additional on-site security inspections to ensure remedies to any problems and at the request of the NRC. RHB has generally found radioactive waste to be stored properly with appropriate security. Rare exceptions to proper storage practices are dealt with immediately.

In late 2001, RHB participated with the California State Strategic Committee on Terrorism in the development of a list of high priority radioactive material facilities in the state. An intensive inspection program was implemented to review the security at these facilities. More recently, NRC has directed that additional security measures be implemented at facilities in the state authorized to possess large quantities or activity of radioactive materials that have a significant potential for use in radiological dispersal devices ("dirty bombs") or improvised nuclear weapons. Such facilities might include food irradiators and other industrial or academic licensees with significant materials. Security inspections have begun at these facilities to ensure that they are in compliance with these orders. Two years ago, additional security provisions for mobile radioactive sources (e.g., low activity sources found in moisture density gauges) were amended into existing and new licenses to improve security for these materials.

The NRC has held a series of meetings and training sessions throughout California to inform and train RHB staff and licensees in the security precautions that must be implemented. The RHB has hosted two of these training sessions. Selected RHB staff has received security clearances to receive Radioactive Material Safeguards and Security Training conducted by the NRC under the federal Atomic Energy Act (AEA) provisions. The Act places the responsibility for "common defense and security" of radioactive materials upon the NRC. The NRC has involved the Agreement States throughout the process of developing and implementing its security programs. RHB personnel who have been so cleared accompany NRC inspectors on security inspections in California.

RHB leadership and staff participate in national expert committees developing standards and model programs to improve security. One staff member serves as the Co-chair of the NRC's Radioactive Materials Security Working Group that developed recommendations on additional security that will be put in place to ensure that radioactive materials are as secure as possible from diversion for terrorist purposes. The RHB Chief sits on the federal Interagency Coordinating Committee for the National Source Tracking System. The Committee is responsible for ensuring that the radioactive source tracking system implemented within the U.S. meets our national needs and complies with the international tracking system mandated by the international convention of the International Atomic Energy Agency.

2. The delay in implementing SB 2065 has diminished intended funding available for management of LLRW. Are there any other options for financing and implementing this law?

Following the Chaptering of SB 2065 ((Kuehl) Chapter 891, Statutes of 2002), the Department developed and the Legislature adopted a proposal that was funded in the Budget Act of 2003. The Department was granted \$1.3 million in special fund expenditure authority to implement SB 2065. Requested positions for staff were not

authorized. More importantly, fees were not raised to fund the new activities. Inadequate revenues into the fund to pay for the program and a lack of vacant positions to redirect to conduct the program are the reasons why SB 2065 has not been implemented.

Fees from the regulated community fund RHB. This includes approximately 2,100 radioactive material facilities, 65,000 X-Ray machines, and 70,000 health professionals. RHB is authorized to establish fees through the regulatory process to cover the costs associated with the regulation of these materials, equipment, and personnel. The fee levels for this program have not been raised in over ten years. The special fund expenditure authority to implement the SB 2065 program is not supported with the current annual fee revenues. The total budgeted programmatic activities in RHB are over \$5 million more than the current annual fees collected.

I am committed to addressing the structural imbalance between program requirements and the fee levels in the Department's Radiologic Health Program. One option for addressing this imbalance is to adopt regulations to increase fees to the regulated community. Another option is to discontinue selected RHB activities to maintain special fund solvency. At this time, the Administration is evaluating the options for resolving this problem.

In addition, with regard to the activities required pursuant to SB 2065, DHS is exploring with the Office of Homeland Security possible federal funding or other options for implementing the LLRW inventory program.

LICENSING AND CERTIFICATION

The Department of Health Services is responsible for the licensing and certification of health facilities in the State. Based on the issues raised during the budget process, it became evident that DHS has a significant backlog in licensing facilities. In fact, it is our understanding that there is a backlog of about 500 providers awaiting licensure. This may have serious consequences on the delivery of services.

- 1. Please explain the DHS role in licensing and certification of health providers. How many providers require a DHS license? What is the current backlog in the Licensing and Certification Unit? How do you plan to address the backlog?**

DHS Role: The Licensing & Certification (L&C) Division of the Department of Health Services performs three main functions pertaining to licensing and certification of health care providers and their continuing status to deliver health care services:

- Initial licensure and certification surveys
- Recertification surveys
- Complaint investigation

Licensing of health facilities is a State responsibility; all health care facilities that want to operate in California must first be licensed (with the exception of exempt clinics and some surgical centers that operate out of a physician's office). DHS licenses approximately 30 different types of health care facilities. More than 6,000 facilities are currently licensed.

Certification is a process DHS conducts on behalf of the federal government and the processes that are used are determined by federal statute and regulation that are interpreted by the Centers for Medicaid and Medicare Services (CMS). Once certified, facilities can bill for payment under the Medicare and Medicaid (Medi-Cal) programs. Not all facilities elect to be certified; currently there are over 4,700 certified facilities in California.

Facilities must submit an application and an application fee to DHS. Once the application has been approved, the facility will then notify the local L&C District Office that they are ready for the initial licensing visit. This survey is prearranged with the facility. Licensed health facilities must renew their license each year and pay a license renewal fee. Licensing fees offset 98% of the General Fund in L&C's budget. Once licensed, if the facility also wishes to be certified, they must provide services to a select number of patients before the certification visit can occur-this is to ensure that they are providing services in accordance with federal regulations. Certification surveys are unannounced.

L&C contracts with Los Angeles County to conduct surveys of facilities located in Los Angeles County. A state field office surveys facilities that are owned or operated by Los Angeles County. The five Los Angeles district offices report to L&C on a day-to-day basis and function in an identical manner as any L&C district office.

Each facility type must undergo periodic surveys to continue their licensing and certification status. The time differential between surveys varies by facility type as determined in federal regulations or state law:

Annual surveys:

Skilled Nursing Facility (SNF)
Intermediate Care Facility for the Mentally Retarded (ICF/MR)

2 Year Cycle

Adult Day Health Care (ADHC)

3-Year Cycle

Home Health Agency (HHA)
Accredited and non-accredited General Acute Care Hospital (GACH)
End Stage Renal Dialysis (ESRD)
Primary Care Clinic (PCC)

6 Year Cycle

Ambulatory Surgical Center (ASC)
Hospices
Rural Health Clinic (RHC)
Outpatient Physical Therapy

In addition to initial and recertification surveys, L&C surveyors also conduct **complaint investigations**. When a surveyor investigates a complaint, the same statutes and regulations apply that are used for the initial and recertification survey. The state Health and Safety Code includes very specific requirements about complaints, however, and the processes a surveyor uses to conduct the investigation are state processes. If, when visiting a facility to review the complaint, a surveyor finds a situation that indicates substandard care, actual harm, or immediate jeopardy to residents, the district office also can use federal processes to initiate an abbreviated or full survey; or the district office can decide to handle the violation with a state process.

Backlog: The backlog in licensing and certifying new facilities, as well as L&C's increasing inability to conduct all periodic surveys is because funding and staffing has not kept pace with the demand for service.

L&C receives an overall federal match of 60% federal funds to match 40% General Fund. Federal funds must be prior approved and are limited by CMS. In fiscal year 2003/04 the variance between the amounts requested by the State and the federal grant award was \$8,304,476. California has not received additional federal funding for the past 3 years.

In previous years, the State also received 50% matching funds from CMS for licensing and certification activities. The State support provided by this initiative has been eliminated through budget reductions and has been exacerbated by the hiring freeze over the past two years.

Over the past two years, L&C had approximately 150 positions cut (approximately half of which were field positions) as well as \$3,365,210 from the LA County contract. The combination of the cuts and vacancies has resulted in an erosion of approximately 20% of L&C capacity for conducting oversight activities. These cuts reduced L&C's program support below the staffing levels that existed prior to the Aging with Dignity initiative.

Backlog of Requests for Initial Surveys: The following summarizes the backlog of facilities waiting for licensing and certification surveys projected as of July 1, 2004.

Facility Type	As of July 1, 2004 All Applications		Total Number Unduplicated Facilities
	Type of Survey Need <i>License</i>	Type of Survey Needed <i>Certification</i>	
Skilled Nursing Facility	1	7	7
Facilities/Developmentally Disabled	39	60	63
Home Health Agencies	167	195	204
Surgery Centers	33	38	45
Dialysis Centers	6	13	13
Hospice	44	50	50
Clinics	93	46	114
Adult Day Health Care*	30*		30*
Hospitals (new service)	107	10	95
Total Survey Workload/Facilities Waiting for surveys	520	419	621
* Assumes TBL implementing ADHC moratorium			

I am committed to fulfilling the Department's obligations with regard to the licensing and certification of health facilities. We have taken steps to reduce the backlog. These steps include authorizing overtime for field surveyors to conduct initial surveys, and reassignment of staff between field offices to address areas of high need. As noted above, our federal grant requires that workload related to Tier 1 and Tier 2 activities must be completed before other tasks are undertaken. Tier 1 activities include periodic nursing home surveys, home health agency surveys and surveys for facilities serving the developmentally disabled. Tier 2 workload includes complaint investigations. During the first 7-8 months of this federal grant period, L&C staff focused on completing Tier 1 and 2 workload. We project that workload in these tiers will be met before the end of the federal fiscal year. District offices have been directed to begin scheduling investigation of lower priority complaints and Tier 3 workload. Tier 3 includes initial surveys and

recertification surveys for facilities such as surgery and dialysis centers. We are continuing to review statutes, regulations, and policies and procedures to identify areas for increased efficiency.

CONTRACTS FOR SERVICES

It came to light during budget discussions that DHS did not have approved contracts for a number of providers who were performing work for the State. DHS processes about 3,000 contracts a year. Processing time for development and approval of contracts can be very complicated and lengthy and workload has been affected by position reductions and on-going state operations reductions.

1. What are the most important considerations in managing contracts? What steps do you plan to take to improve contract administration?

The Department of Health Services (DHS) oversees a broad array of health and medical services to the people of California. These services are provided primarily by our business partners, including local public health agencies; hospitals and medical centers; health plans; laboratories; universities; community based organizations; and others. In many instances, funding for these services requires a contractual agreement between DHS and the service organization. These contracts, plus the interagency agreements, grants, and the administrative contracts required of any large state department, must all be developed, and/or amended. DHS administers more than 3,000 contracts that must be developed and executed annually.

The most important consideration in management of contracts is assuring that public funds are being allocated in a cost effective manner to advance the mission and responsibilities of the Department. Contracts must be developed consistent with State statutes, regulations, and policies as set forth by the administration. Regrettably, the department's business practices have not always assured that contracts be in place prior to the delivery of services.

Our ability to meet the needs of the citizens of California is dependent on maintaining good working relationships with our community partners and ensuring that they will be funded for services provided. In my short tenure with DHS, I have learned that our contracting practices are a source of frustration for many of our business partners. I am committed to improving our relationships with our business partners.

An organizational culture change is needed within DHS that makes the timely development and approval of contracts a high priority. It is my responsibility and the responsibility of each member of the DHS Executive Staff to embrace this change. I am committed to improving our contract management practices.

There are a number of areas that we are currently reviewing to improve our contract administration. These focus areas include looking at alternatives that may reduce the number of contracts; streamlining the process for contract development; and improving the monitoring of contract development.

To **reduce the number of contracts** we are exploring the following:

- Whether a statutorily approved allocation would eliminate the need for a complex contract. If so, DHS may propose necessary legislation to enable this transition.
- Do contractors have numerous contracts within or across program areas? If so, we will evaluate the advisability/feasibility of combining contracts rather than developing a contract for each individual program or service.
- Staggering multi-year contracts so that the initial, more intensive development years can vary throughout the term of the contracts with intervening years requiring a contract amendment for continuation. This may involve varying lengths of contracts until a revised pattern is established.

To **streamline the process of contract development** we are examining our current development procedures. Currently, program staff has primarily responsibility for the complete development of contracts including determining the necessary standard agreements and attachments. The contract management unit reviews and ensures that contracts meet the legal and regulatory requirements. Program staff has varying levels of experience, and procedures within program areas vary. Many times this results in duplication of effort, and delays. Changes that are being pursued include the following:

- To the extent possible, we will standardize the process of contract development.
- Where applicable, we will separate the functions and responsibilities of program and contract management unit staff. Program staff will maintain the responsibility for the program specific statement of work, the budget, and any other program specific provisions. The contract management unit will be responsible for the administration function of review, compiling the necessary standard agreements and attachments, and forwarding the completed contract for necessary approvals and signatures.
- We will develop a protocol for problem resolution for when there is a disagreement between program and contract management staff.

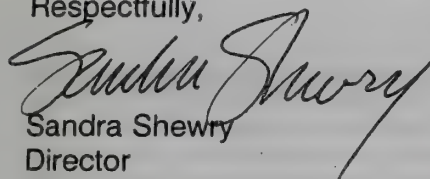
To improve the **monitoring of contracts** we are implementing the following actions:

- Each program deputy will develop an annual plan for the timely development of upcoming contracts and known contract amendments.
- The plan will be regularly reviewed with the program's Chief Deputy Director or State Public Health Officer, and will be updated as new contracts are proposed and target dates are met.
- A copy of the plans and updates will be provided to the contract management unit so they may plan for staffing resources based on the anticipated flow of incoming contracts.
- The contract management unit will develop a more complete, single tracking system for contract flow, and produce management reports for program and administration staff.

These actions, as well as others currently being researched, will significantly improve our timeliness in the development and approval of contracts. We will continue to work closely with our public and private community partners to ensure the continuity of services to the citizens of California.

Thank you for your consideration of my appointment as Director of the Department of Health Services.

Respectfully,

A handwritten signature in cursive script, appearing to read "Sandra Shewry".

Sandra Shewry
Director

Jon S. Fleischman

Appointee to the Boating and Waterways Commission

As requested, here are some of my top goals/objectives as a member of this commission:

- **Perform due diligence in thoroughly examining and reviewing all of the proposals for Boat Launching Facilities Grants and Marina Loans (for both public and private facilities) that come before our commission.**
- **Diligently network to the boating community, whether at harbor or lakes, to both educate them on the activities and programs of the Department of Boating and Waterways (especially where it concerns our message of boating safety and education), as well as gathering valuable input from the boating community to take back to the commission, and Agency staff.**
- **Use my personal experience as a Reserve Deputy Sheriff assigned to Orange County's Harbor Patrol, which enforces boating laws, to give relevant input to the commission, and to the Department of Boating and Waterways. Network within the law enforcement community that enforces boating laws; encourage them to take advantage of the outstanding training that is provided by the Department.**
- **Utilize my years of experience in media relations and public relations as a Public Information Officer to work with the appropriate staff at the Department of Boating and Waterways to help promote the core messages of the Department (boating safety and education, as well as our role providing for the financing via loans or grants of marinas and boat launch facilities).**

California Student Aid Commission Confirmation Questions
Sally M. Furay

1. Please provide us with a brief statement of goals. What did you accomplish in your last term and what are your goals for this term. Why do you believe you are qualified to serve on the California Student Aid Commission (CSAC)?

My fundamental goal is to assist the California Student Aid Commission in enabling education for needy California students. My personal conviction is that the legislature's and Governor's enactment, in September 2000, of SB 1644, is one of the most significant pieces of legislation ever passed in California, a sort of GI bill for the state. California is at a crossroads, not just financially, but in educating the increasingly diverse population of this state. California's economy in the next twenty-five years will depend on the level of education of its citizens and residents. These efforts have critical significance to avoid the tragedy that many in the current and future generations of young people will be lost to welfare and prison, at state expense, rather than becoming income tax paying citizens.

During my last term on the Commission, I chaired the Grants and Programs Committee and for several years, the Audit Committee. I bring to the Commission intimate knowledge of independent higher education in the state, which serves tens of thousands of students, with a higher graduation rate for minority students than any other segment of post-secondary education. My knowledge of meetings and processes has helped to keep Commission meetings on target. After 44 years in higher education in this state, I know the students and their needs, and will continue to serve them with enthusiasm.

2. What do you believe the greatest challenges will be for the CSAC in responding to the needs of California students in the next several years?

As already noted in #1 above, I believe that California has shown real vision for the long-term future by enacting SB1644 in September 2000. Somehow, some way in spite of a difficult economy, that vision must be kept alive by protecting and preserving the Cal Grant awards, in cooperation with legislators and the Administration. Why? Because lack of education will create huge problems for California's economy in the coming years as the state's population becomes more diverse.

Now that the Student Loan Operating Fund, generated by CSAC's auxiliary, EdFund, is funding CSAC's operations and its significant outreach program, EdFund itself must be preserved and expanded in spite of enormous competition in the loan markets all over the country. With the proposed 2004-2005 budget drawing almost \$150 million from the Student Loan Operating Fund, it becomes increasingly important to diversify EdFund's ability to operate in those loan markets.

3. The Governor's May Revise Budget proposal proposes to reduce the number of Competitive Cal Grants from 22,500 awards to 16,875 awards, potentially serving only 12 percent of the students eligible for a Competitive Cal Grant award. Given California's fiscal difficulties, what can the Commission do to assist students who might be denied these awards?

Each half year, members of the Student Aid Commission – and probably members of the legislature as well when they hear from their constituents – feel deeply the lack of funds for the thousands of eligible adults who cannot financially afford to improve their own and their family situations by continuing their education. I hope that someday there will be funds available to meet the needs of these non-traditional students. However, I continue to think that the legislature set the right priorities, favoring the entitlement program for high school graduates when there are insufficient funds to meet broader educational needs. Through EdFund, federal loans and grants help adult students as part of financial aid packages, as can privately administered loans and outside scholarships.

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4. Cal Grants are an "all or nothing" proposition for eligible students while Pell Grants calculate the size of the award to reflect the student's need up to a maximum award amount? Which approach do you favor?

Although I once had two financial aid offices (undergraduate/graduate and law) reporting to me through deans, I don't remember the specifics of Pell Grant eligibility. However, CSAC calculates student need and eligibility using the same FAFSA forms which are used to calculate Pell Grants. I understand that Cal Grant maxima are higher for Cal Grant A than Pell Grants, in order to accommodate the lower middle class in addition to the poor. However, for Cal Grant B, which funds the neediest students, Cal Grant and Pell Grant eligibility are very close. I would not like to see overall Cal Grant eligibility mirror that of Pell Grants because I strongly favor the current approach to Cal Grants as reflected in SB 1644.

The income ceilings which are part of the Cal Grant Award system already narrow eligibility to those lower income and lower middle income students unable to enroll without the Cal Grant. My many years of administering an independent institution of higher education, including its financial aid offices, have made me aware that most Cal Grant recipients in such institutions have sizeable additional need; many are Pell Grant recipients, they borrow thousands of dollars, and they work many hours per week to make ends meet in the college of their choice. This is probably true in UC and CSU as well, but I am less familiar with their issues.

5. The maximum Cal Grant award for students attending independent colleges is proposed to be reduced in the Governor's budget from \$9708 to \$5482, a 44 percent reduction in Cal Grant aid. What impact do you believe this will have on student choice and access to independent colleges? What is an appropriate Cal Grant award level for these students in order to maintain student choice and access to these institutions?

As already noted in #4, I have long experience in working with students at independent institutions. A 44% reduction in Cal Grant awards will make it impossible for many to attend these institutions. Probably no more than five or six of the state's more than 150 independent institutions have sufficient resources or endowment to make up the difference, and even those would have some difficulty in doing so.

The entire Cal Grant legislation, from the late 1950s when it began (yes, I was around at that time, though not yet in administration) is that it levels the playing field for low-income students, allowing them to choose a school based on their individual needs and educational goals instead of the limits of their income. The legislation was originally about access, opportunity, and choice, and should remain so. Decreasing the award for independent colleges by such a large amount would take away this benefit and force most Cal Grant recipients into already overcrowded public institutions.

On the second aspect of the question: The award amount for independent colleges should be maintained *at least* at its current level of \$9708. An appropriate Cal Grant award level for independent institutions in future would be to establish that award level as an amount saved by the state because these students are not part of the public system, thus eliminating the need for the state of California to establish more public-supported campuses, doubtless at far greater cost than Cal Grants to independent institutions.

6. Should California colleges and universities be required to participate with the EdFund loan program rather than direct lending and, if so, how does this benefit students and improve services?

I would be pleased if more institutions chose to work with EdFund, but I am strongly opposed to any suggestion of mandating such participation. Requiring an institution to participate in the Federal Family Education Loan (FFEL) program (the program administered by EdFund) is prohibited by the federal Higher Education Act and would constitute an illegal inducement.

I know for a fact that increasing numbers of colleges and universities in California and around the nation have switched to EdFund because of the high quality of service and

personal attention given to students by EdFund. But again, my background evidences to me the enormous complexity of financial aid operations, and I believe that such offices need a system that they feel works for them, even though I personally believe they would get better service for their students from EdFund. It is also a significant fact that EdFund, as a nonprofit corporation, turns any surplus into benefits for students and financial aid offices, rather than enrichment for shareholders, as happens with proprietary groups.

7. What efforts does CSAC have underway to increase information outreach to low-income high school students and their families interested in applying for the FAFSA and Cal Grant program? Is assistance available for filling out the forms?

Following passage of SB 1644, CSAC began to discuss at length, at virtually every meeting, how to make the opportunity to better themselves available to all California high school students, especially those from families with no tradition of post-secondary education. An enormous amount of data has been gathered. Early on, the efforts focused too much, in my opinion, on traditional media coverage, though College Goal Sunday, inaugurated that first year, was very successful. Then one of the Commissioners who has daily contact with high school populations became Chair of Outreach, and the result is remarkable. While bilingual newspaper and radio ads and corporate sponsorships from such groups as Taco Bell, Comcast Cable, Burger King, Krispy Kreme Doughnuts, Mission Tortillas, and many others have continued, new approaches to high school counselors and teachers have brought awareness to high school students themselves all over the state, a fact to which these students attest in regular evaluations.

However, it remains evident that students who drop out of high school will not be eligible for Cal Grants. Hence, the Student Aid Commission is developing current and future plans to target middle school and early high school students, assuring them that they CAN continue their education – whether in a community college, baccalaureate program, or eligible vocational program – if they study hard and complete high school.

Yes, as noted in my response to the next question, assistance is available to students and parents.

8. Students and families complain that the federal FAFSA financial aid form is very complex and difficult to complete. Is CSAC making any effort to encourage the simplification of this federal form?

My extensive college/university experience has made me well aware of the complaints about FAFSA. I do think that what is in the forms is needed information, though perhaps it could be somewhat better organized. Even educated parents have trouble with it. The real key lies in CSAC's focus on getting help to students and parents in filling out the forms. Financial aid officers from all over the state, including bilingual volunteers, offer to assist students and parents on a number of designated days in well-advertised locations. By advocating that financial aid application should be a part of regular classtime activity, CSAC hopes that students will become well-versed in the FAFSA and will be less intimidated by it.

9. Given the proposed cuts to public university outreach programs, what can CSAC do to maximize information about college opportunities and financial aid to low-income students?

As noted above, CSAC has already made great strides in the past several years in cooperative efforts to maximize outreach programs in the state. Current efforts focus on working with Cal-SOAP, AVID, expansion of UC and CSU programs, and other existing endeavors so as not to waste money by reinventing the wheel. Location maps have been developed to identify existing programs all over California, in order to shore up their efforts while seeking ways to target areas not currently covered by outreach programs. Utilizing a comprehensive outreach plan, the public awareness campaign, College Goal Sunday, and cooperation with existing outreach entities, CSAC is doing a great deal to reach out to California's underrepresented, low-income and lower middle income students who are the intended recipients of Cal Grants.

Senate Confirmation Questions for Reappointment
To the California Student Aid Commission

Please provide us with a brief statement of goals. What did you accomplish in your last term and what are your goals for this term? Why do you believe you are qualified to serve on the California Student Aid Commission (CSAC)?

As the only secondary schools representative serving CSAC, I feel that my qualifications are strong. I taught Spanish for 25 years and have been a credentialed counselor since 1993. I am responsible for over 700 students. Also, I am a national trainer for AVID and created the counseling strand, which is used in all AVID Institutes. In my last term I served on several committees: Grants and Programs, Vice Chair of Audit, Personnel, and was the Chair of the Outreach Committee. I also was the CSAC liaison to the Grant Advisory and Cal Soap. My goals for this term are to continue my work with Outreach, Personnel, Audit, and Grant Advisory.

What do you believe the greatest challenges will be for CSAC in responding to the needs of California students in the next several years?

With the financial challenges California now faces, maintaining funding of the Entitlement Grants (Cal Grants) is crucial. Educating the youth of our state is central to economic recovery and growth. Additionally, we continue to attempt to find ways to reach out to all students and families. This is a large task as California is culturally, linguistically, and geographically diverse. We have doubled the number of Cal Grant awards since the inception of SB1644 and continue to improve each year. Finally, it is imperative that we meet the challenge of expanding the services of EdFund.

The Governor's May Revise Budget proposal proposes to reduce the number of competitive Cal Grants from 22,500 awards to 16,875 awards potentially serving only 12 percent of the students eligible for a Competitive Cal Grant award. Given California's fiscal difficulties, what can the Commission do to assist students who might be denied these awards?

The Commission can do exactly what all responsible high school counselors do. In a formalized outreach effort, apprise students and families of all forms of financial assistance. Help them understand the intricacies of Federal Aid possibilities as well as work-study and student loans. We can encourage all students to complete a FAFSA by the deadlines and examine all possibilities.

Cal Grants are an "all or nothing" proposition for eligible students while Pell Grants calculate the size of the award to reflect the student's need up to a maximum award amount. Which approach do you favor?

Even before the signing of the Entitlement Grant, CSAC has supported need-based financial aid programs. In my personal experience in working with students and families,

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the Cal Grant, as delivered, well serves their needs by covering tuition at the public universities, or providing tuition assistance for the independent colleges.

The maximum Cal Grant award for students attending independent colleges is proposed to be reduced in the Governor's budget from \$9,708 to \$5,482, a 44 percent reduction in Cal Grant aid. What impact do you believe this will have on student choice and access to independent colleges? What is an appropriate Cal Grant award level for these students in order to maintain student choice and access to these institutions?

I would support maintaining the award at the current level of \$9,708. During the 2003-2004 school year it became obvious to me that fewer students were applying to independent colleges. My low-income students were fearful that this reduction would take place and chose to attend either a public university or the community college. As we all know, seats at the public universities are scarce and competitive. They are also quite large, generally speaking. This environment doesn't meet the needs of all students. For some a small independent school is a better "fit". I would be disappointed to see that opportunity disappear for California students.

Should California colleges and universities be required to participate in the EDFUND loan program rather than direct lending and, if so, how does this benefit students and improve service?

While it would certainly be financially lucrative, I would question the legality of requiring schools to participate in the EdFUND program. Under the Higher Education Act, schools are given the choice. EdFUND is the second largest program in the nation and is highly regarded both inside and outside of California as a premier provider of service. We have a healthy portfolio. With careful planning and execution, expanding our services will benefit all subscribers.

What efforts does CSAC have underway to increase information outreach to low-income high school students and their families interested in applying for the FAFSA and Cal Grant program? Is assistance available for filling out the forms?

Working in this arena has been my greatest contribution to CSAC. We recognize the importance of providing one-on-one assistance to students and families therefore we have approached this in several ways. I worked closely with RS&E, our marketing firm, to create a Teaching Tool Kit that can be used by schools and faith-based or community-based organizations to provide assistance. I created the idea and wrote the lesson plan to help teachers, counselors, or financial aid volunteers have all the tools necessary to help students. Also, we are well on the way to institutionalizing College Goal Sunday which is held all over the state and has been sponsored and supported by California legislators. Volunteers from financial aid offices provide assistance in multiple languages. We have made aggressive efforts to partner with corporations and have received generous pro bono donations from radio stations and cable television stations. We have reached parents in several languages by using newspapers such as La Opinion. Finally, we are entering phase two of a three-year outreach plan that was strategically developed to examine all

outreach efforts throughout the state and carefully avoid duplication of effort, thus using our outreach dollars effectively. Our plan has four components: partnership development, in-class instruction, technology and fill-out-the FAFSA activities. The selected applicants are currently in the process of being evaluated for progress of their work in year one. Phase two will continue with the same four components but are to include ways to reach to lower grades to help all California schools develop a "college-going culture".

Students and families complain that the federal FAFSA financial aid form is very complex and difficult to complete. Is CSAC making any effort to encourage the simplification of this federal form?

This is a common complaint that CSAC, along with the financial aid commissions of many other states, has voiced two concerns to the federal government: one is the complexity of the FAFSA and the other is the question pertaining to previous drug conviction. Thus far, no attempt to address these concerns has been made. We will continue to speak to this. In the interim, we are doing our best to work with students and families. I have personally submitted a concept that has gotten much attention with the Legislature regarding the addition of knowledge of FAFSA completion into the curriculum of the required Economics class.

Given the proposed cuts to public university outreach programs, what can CSAC do to maximize information about college opportunities and financial aid to low-income students?

As I stated earlier, the first task the outreach staff completed was to examine all outreach programs statewide and determine where there was too much, or not enough. We then selected RFPs that would enhance existing efforts in California. For example, AVID was chosen to ensure that all seniors in the 580 high schools with an AVID program would complete the FAFSA and verify the GPAs. As well, we are enhancing our web page to provide assistance to students and parents. Along with the earlier discussed efforts, we feel that we are doing a great job of reaching our Cal Grant-eligible students.

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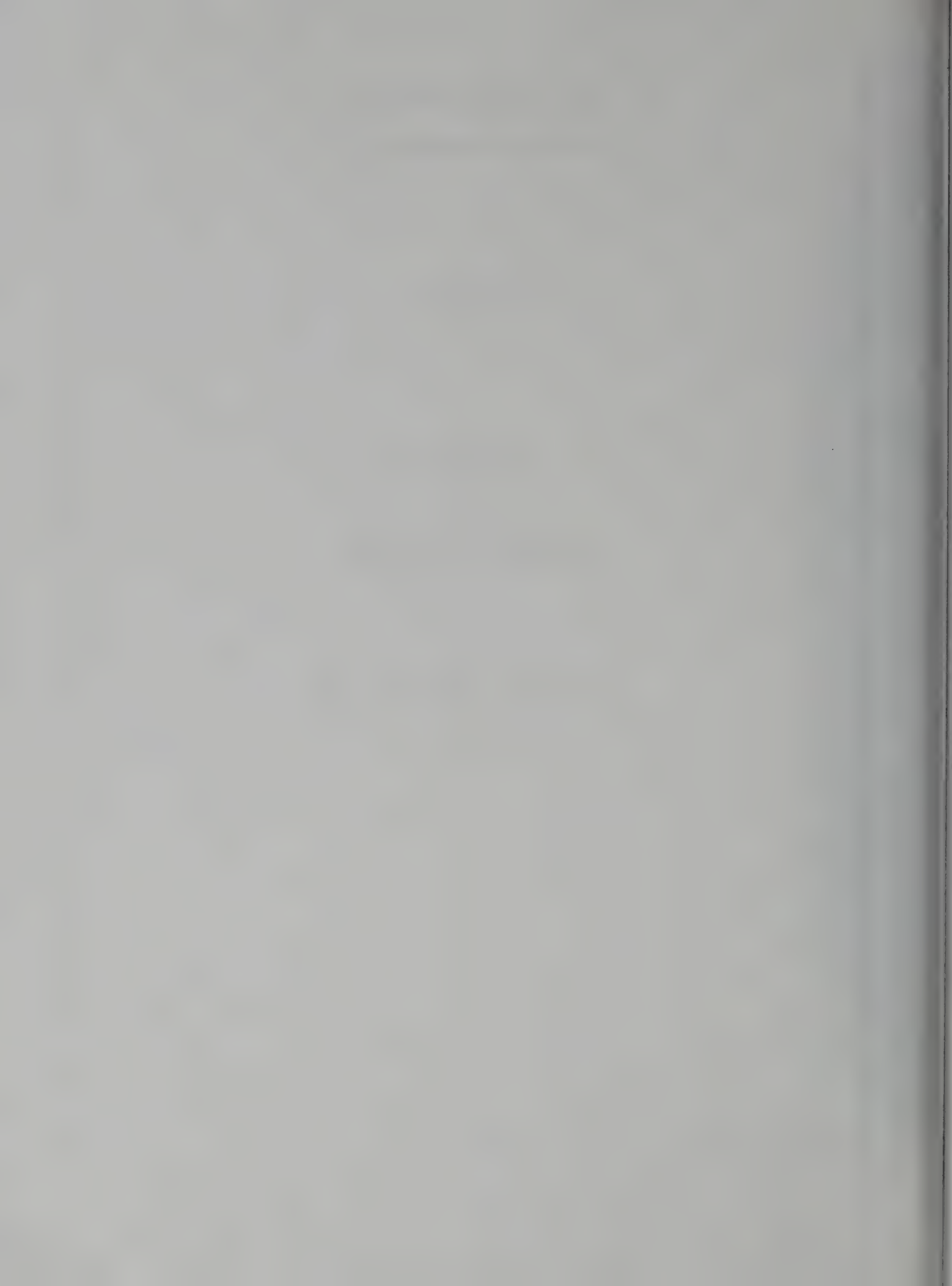
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SENATOR ROSS JOHNSON, Vice Chair

SENATOR JAMES BRULTE

SENATOR BETTY KARNETTE

SENATOR GLORIA ROMERO

STAFF PRESENT

GREG SCHMIDT, Executive Officer

PAT WEBB, Committee Secretary

NETTIE SABELHAUS, Consultant on Governor's Appointments

SUSIE SWATT, Consultant to SENATOR JOHNSON

CHRIS BURNS, Consultant to SENATOR BRULTE

TIM SHELLEY, Consultant to SENATOR KARNETTE

CARY RUDMAN, Consultant to SENATOR ROMERO

ALSO PRESENT

MOCTESUMA ESPARZA, Trustee
California State University

PAUL D. WACHTER, Regent
University of California

TAMMEIL GILKERSON, Director
Higher Education Policy
Greenlining Institute

LINDA JOANNA SALINAS, Student
UC Berkeley

NOELLE A. ABASTILLAS, Graduate
UC Berkeley, Class of 2003

1 VINA HA, Graduate
2 UC Berkeley

3 LIA MUNOZ, Student
4 UC Riverside

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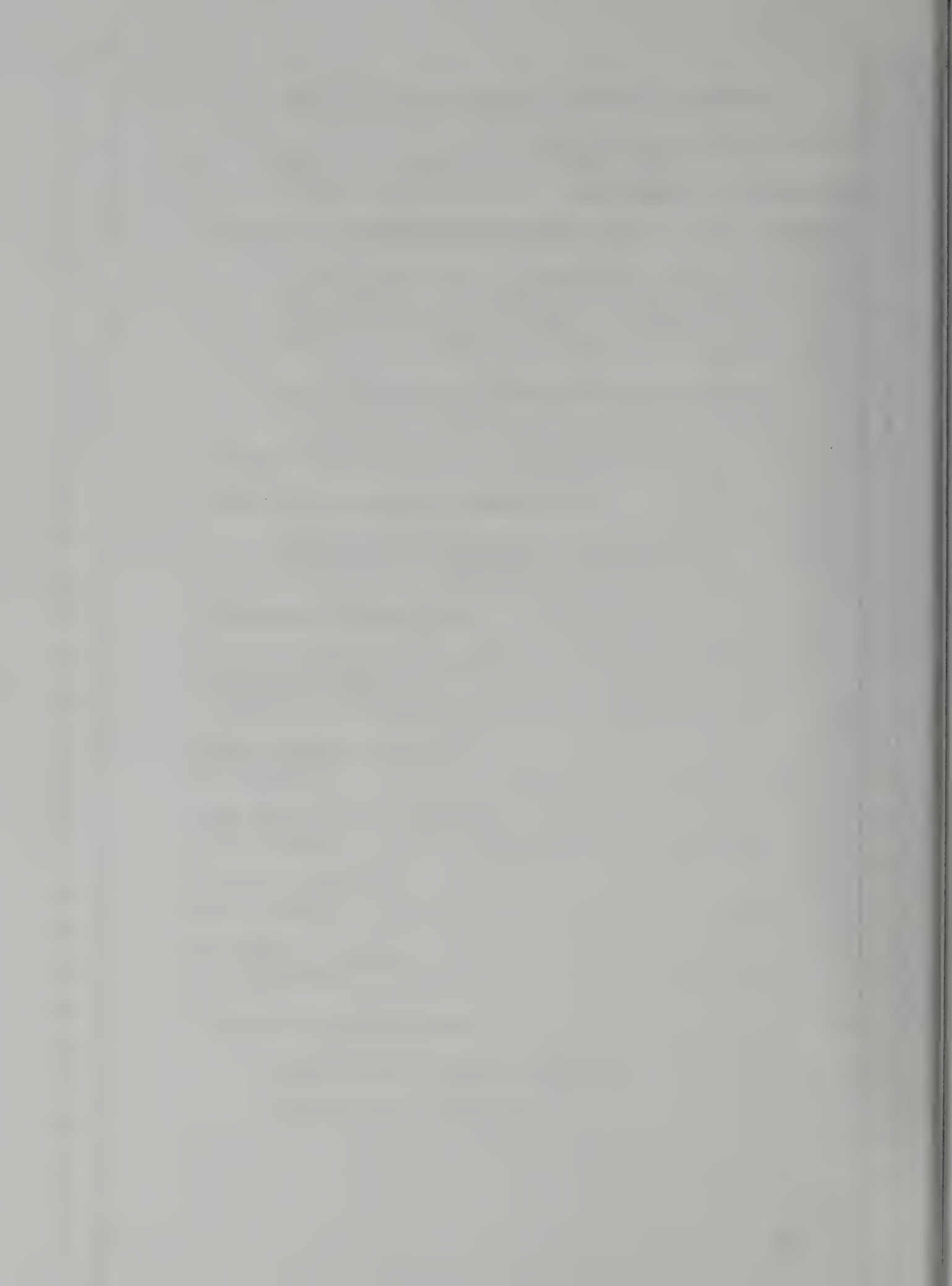
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P-R-O-C-E-E-D-I-N-G-S

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CHAIRMAN BURTON: First Governor's appointee required to appear, Moctesuma Esparza, Trustee, California State University.

MR. ESPARZA: Good morning, Senator, Members of the Committee.

My name is Moctesuma Esparza. I'm pleased to be here as a candidate for confirmation to the Trustees of the California State University.

I was born and raised in Los Angeles and a product of public schools, and feel that it is vital that our schools continue to become the bastion of education to keep this state great and to have access as far as possible to allow for the broadest part of our population to become educated and to keep it affordable.

I'm committed to attending the meetings and to work hard at having CSU continue to bring all of the students that are eligible into the system.

CHAIRMAN BURTON: Sixty percent of the students that go to the State University system, which at one time I think it was close to one hundred percent, basically they're in teacher preparation programs to be teachers.

As a Trustee, how could either the Trustees or the Legislature measure the success of the programs, like either how many teachers are getting out, how many are not just graduating but getting their credentials and sticking with it, so to speak?

1 MR. ESPARZA: I think that the crisis in
2 education in maintaining quality teachers has to do also with
3 the kind of salaries that teachers make. So, attracting the
4 best and the brightest to be teachers, which was a noble and
5 strong option for many people, and which I benefitted from when
6 I was growing up, is not as strong today. The best and the
7 brightest don't always want to be teachers because they don't
8 see that they're going to be able to maintain a middle class
9 household today.

10 So certainly, whatever influence we have as
11 Trustees to bring more teachers in and to promote that they have
12 quality salaries, and to promote that their education be such
13 that they are able to, culturally and from their own heart, view
14 that every single child has a potential to succeed is a very
15 important thing.

16 Besides having quality preparation for teaching,
17 I know that personally one great teacher that I had in high
18 school, Mr. Tally, an Irishman, demanded that I perform. This
19 was in a high school that had over 50 percent dropout rate,
20 where almost nobody went to college.

21 And this single teacher sent more students to the
22 Ivy League, I think, than anyone else from the east side did.
23 And the rest of the teachers actually resented him because he
24 succeeded, and he managed to get his students to perform. It's
25 because he believed in his students, and he knew that the
26 students could perform, even though they were growing up in
27 housing projects, which is where I grew up.

28 So certainly, in viewing in teachers this mission

1 of seeing every single child as someone who can absolutely
2 succeed no matter what their background or circumstances is for
3 me as vital as the kind of preparation they receive as
4 instructors.

5 CHAIRMAN BURTON: Senator Johnson.

6 SENATOR JOHNSON: No questions.

7 CHAIRMAN BURTON: Senator Romero.

8 SENATOR ROMERO: First, I would applaud you on
9 your commitment to attend every meeting. Committees are
10 significant, important. I think it's an issue that most
11 recently has surfaced more so with respect to the University of
12 California system, but I think in every system, the obligation,
13 the responsibility, and I think the honor of being nominated as
14 a Trustee of the California State University system is
15 significant. I am going to hold you to that commitment to make
16 sure that you do participate and participate fully.

17 Let me just ask you this. I'm a product all
18 three systems: the community colleges, CSU, and UC. I have
19 always liked the concept of dual admissions programs, of
20 four-year universities working closely with the community
21 colleges.

22 I was not exactly enamored with the Governor's
23 proposal this year in terms of the budget and the redirection of
24 students, but I believe that there's room, and there's a place,
25 and there's a necessity for two-year and four-year colleges to
26 overlap and to develop some creative dual admissions.

27 What thoughts do you have on how you will work
28 with, or can work with, our community colleges to basically

1 achieve the goals that you have for affordable access and
2 sufficient access for all students?

3 MR. ESPARZA: I think that the CSU system can
4 work closely with the junior college system in assuring that
5 students at the junior college level receive the right kind of
6 counseling so that the classes that they take actually are
7 transferrable and speak to the major that they have selected.

8 Right now, many students spend three, four, five
9 years going to junior colleges, never attain the right kind of
10 units that are transferrable, and are kind of just wandering in
11 that system. And I think that more attention to counseling, to
12 a strict program that would lead them to a four-year institution
13 so that they could graduate, is achievable. I think we can play
14 a role there.

15 SENATOR ROMERO: No other questions.

16 CHAIRMAN BURTON: Senator Brulte.

17 SENATOR BRULTE: Following up on your last
18 comment, and I would commend you to chat with the Governor's
19 office. This Legislature is going to put on his desk a couple
20 of bills dealing with transferability and common course
21 numbering.

22 You can take English 1-A at one community
23 college, and it doesn't transfer to CSU. You can it at another
24 community college and it does transfer to CSU.

25 To the extent that you can help eliminate the
26 confusion that college kids have to go through, going through
27 this horrible matrix of classes to figure out what class works
28 at different colleges, you will have done a great deal to help

1 students.

2 MR. ESPARZA: I believe that's important, and I
3 am committed to that.

4 SENATOR BRULTE: Move.

5 CHAIRMAN BURTON: Would that be more something
6 that we ought to lay also on the Community College Trustees, if
7 they've got screwed up numbering, depending on the campus?

8 SENATOR BRULTE: We actually have within the
9 legislation that Senator Scott and that you've supported as
10 well, it's permissive for the community colleges, because if we
11 mandate it, it of course creates a local government Prop. 98
12 mandate.

13 CHAIRMAN BURTON: So if you tell them to do it,
14 it makes sense, then you're paying them more money.

15 SENATOR BRULTE: Yes, so we're encouraging them
16 in the language.

17 When we went through budget subcommittee
18 hearings, you know, the community college budget types came
19 before us and said, well, you know, we need more money to help
20 make it easier for kids to understand our system so they can go
21 on to higher academic institutions.

22 I kind of thought that was their prime goal, not
23 something that we should give them extra money to do.

24 CHAIRMAN BURTON: Senator Karnette.

25 SENATOR KARNETTE: I'd like to commend you on
26 what you said about outreach and good teaching. I think that
27 really has such an influence on everyone, whether they're young
28 or older.

1 I noticed something that I didn't bring up
2 earlier, and that has to do with the cost of textbooks. I know
3 in colleges, textbooks, it used to, when I went years ago, it
4 didn't cost nearly so much for textbooks in comparison to
5 tuition. Textbooks have just gotten increasingly expensive.

6 Do you see any solution or any way to help the
7 students in that area?

8 MR. ESPARZA: Well, I know that one of my sons
9 just recently went on the Internet and bought a textbook, I
10 think, from London that was required for a course that he was
11 taking in Columbia. And he got it much cheaper.

12 It seems to me that we can buy drugs in Canada
13 and textbooks in Europe a lot cheaper than we can get them in
14 the United States. I think there's something wrong with that.

15 SENATOR KARNETTE: That I hadn't heard about.
16 We'll have to look at that, Gloria.

17 CHAIRMAN BURTON: Witnesses in support.

18 Moved by Senator Brulte. Call the roll.

19 SECRETARY WEBB: Senator Brulte.

20 SENATOR BRULTE: Aye.

21 SECRETARY WEBB: Brulte Aye. Senator Karnette.

22 SENATOR KARNETTE: Aye.

23 SECRETARY WEBB: Karnette Aye. Senator Romero.

24 SENATOR ROMERO: Aye.

25 SECRETARY WEBB: Romero Aye. Senator Johnson.

26 SENATOR JOHNSON: Aye.

27 SECRETARY WEBB: Johnson Aye. Senator Burton.

28 CHAIRMAN BURTON: Aye.

1 SECRETARY WEBB: Burton Aye. Five to zero.

2 CHAIRMAN BURTON: Congratulations.

3 MR. ESPARZA: Thank you very much.

4 CHAIRMAN BURTON: Now that he's got out of the
5 Committee, I should point out that Moctesuma, Ray Haynes and
6 myself were all McGovern delegates in 1972.

7 [Laughter.]

8 CHAIRMAN BURTON: With Jim Rogan being a strong
9 supporter.

10 SENATOR BRULTE: There's still the Floor.

11 CHAIRMAN BURTON: Did you bring any family with
12 you, Moctesuma?

13 MR. ESPARZA: No, just myself.

14 CHAIRMAN BURTON: More than enough.

15 Next, Paul Wachter, Regent, University of
16 California.

17 MR. WACHTER: Good morning, everyone. I
18 submitted a statement, so I won't read that.

19 But I just wanted to say a couple of things.

20 First of all, I am fully aware of the trust that
21 is being placed in someone who becomes a Regent of the
22 University of California by the Governor and by all of you. And
23 I take it extremely seriously, which means participation,
24 involvement, at the meetings, between the meetings, on the
25 committees. I mean, anything like this is more than just
26 attending meetings. That's a big part of it, but it's also what
27 you do between the meetings and what happens at the committee
28 where a lot of the work gets done.

1 So, I just want to assure you all, because I know
2 this is on everyone's mind, that this is not something I take
3 lightly at all. It's a serious commitment, and I'm fully aware
4 of it, and intend to make it.

5 Second of all, I think just one brief comment. I
6 think coming from the outside a little bit as I do, coming from
7 the East Coast, and not having had the benefit of attending the
8 UC, my wife actually did go to Berkeley and attended the full
9 public school system here, but I think that it's hard to explain
10 what it looks like to someone who comes from the outside,
11 because it's a truly remarkable institution. I'm sure you all
12 know that intellectually, but when you come from a place like
13 New York, which is obviously a big and a great state, but
14 doesn't have anything like it, and you see this thing, it's so
15 big, it's so -- the quality is so good, and it's so pervasive in
16 the society of California in terms of health care and all the
17 different things, you can't help but be struck by it.

18 I think again, the quality of it, the
19 accessibility to the full range of all the people of California,
20 affordability, all of those things are things that are striking,
21 that need to be preserved, that need to be improved.

22 I would just be one Regent, obviously, but that
23 all the Regents need to work on, constantly preserving and
24 improving because it's something that, if there's another state
25 that has something like it, I'm not aware of it.

26 CHAIRMAN BURTON: One of the concerns that you
27 have addressed is attending the Regent meetings. It's a very
28 prestigious job, and unfortunately some people figure that's the

1 end of it, and that's really the beginning of it.

2 I think also that it's important to push upon
3 your colleagues to provide more and adequate public notice about
4 the meetings so that people who do want to comment, want to say
5 something, or ask something, are aware of it.

6 And then also a concern that we have to do the
7 best to have both the faculty and, to the extent possible, the
8 students also kind of reflect what the state looks like, as
9 opposed to looking like you and me.

10 I'd like to have your commitment that you'd work
11 toward those things.

12 MR. WACHTER: Absolutely.

13 CHAIRMAN BURTON: Senator Johnson.

14 SENATOR JOHNSON: No questions.

15 CHAIRMAN BURTON: Senator Romero.

16 SENATOR ROMERO: Again, I just want to iterate
17 the commitment to serving committees, meetings, and of course
18 everything that happens in between.

19 The Deukmejian Report came out with respect to
20 reforms in Corrections. And there's one aspect of the report
21 that addresses how health care, the delivery of health care
22 services to those we incarcerate in California's prisons perhaps
23 might be better accomplished via the use, the service, of the
24 University of California hospitals, medical centers, et cetera.

25 Have you had a chance to review that?

26 MR. WACHTER: No, the first I've heard of it.

27 SENATOR ROMERO: I'd be curious to have you take
28 a look at it. I Chair the Corrections Committee in the Senate,

1 and it's an area of great interest to me, and I would look
2 forward to your thoughts on it.

3 Let me just ask you secondly with respect to,
4 again, the dual admissions policy. How might you anticipate
5 that the community colleges might work more closely with the
6 four-year institutions, the University of California, to ensure
7 that there is affordable access, outreach for students, that we
8 can in a sense not re-invent the wheel each time, but perhaps
9 have some creative dual admissions policies that can better
10 educate and more quickly move students through the system?

11 MR. WACHTER: Well, my understanding is that
12 there is already a certain amount of people coming from the
13 community colleges into the UC, and that there's room -- we
14 talked about this yesterday -- that there's room for those
15 students.

16 I think it's actually a great idea of the system
17 in terms of how would you -- I'm not sure if you're asking how
18 would you make bigger numbers available, or whatever, but I
19 think just philosophically, I think the idea that people, if
20 they go to the community colleges, do well, would have a chance
21 to transfer in, which I think is what you're saying --

22 SENATOR ROMERO: And transfer's very important,
23 but not necessarily transfer, but at the same time, almost a
24 free flow, a free exchange of students in a sense.

25 There's different models out there. I don't want
26 to prescribe one particular one. But I would just encourage you
27 to take a look at how we might truly, perhaps, think about ways
28 that we can establish and maintain and efficiently operate dual

1 admissions.

2 I'm almost thinking of a NAFTA for students in
3 higher education. How do you have a free flow of students,
4 regardless of the system because they're all publicly funded
5 universities? As long as one's deemed qualified and eligible,
6 how do we accommodate in the most efficient way for the students
7 in the state?

8 I just think there's so much that we can do that
9 we have not yet done, and I'll look forward to your views on
10 this when you've attended few more meetings.

11 MR. WACHTER: It's something I need to get a
12 little deeper into.

13 SENATOR JOHNSON: Senator Brulte.

14 SENATOR BRULTE: After you become world-reknown
15 as a Regent, if I have a Wachter bobble-head doll, I'll want you
16 to sign it.

17 [Laughter.]

18 MR. WACHTER: We'll sue you.

19 [Laughter.]

20 SENATOR BRULTE: Move the nomination.

21 SENATOR JOHNSON: Senator Karnette.

22 SENATOR KARNETTE: Technology is really upon us.
23 I think that what Senator Romero was talking about, Corrections
24 and the health care system, I think the education system and how
25 we educate people who are incarcerated has become a very
26 significant issue. I sit to the same committee that she
27 chairs.

28 I think that somehow the universities and

1 technology should be able to help. You probably haven't thought
2 about that either?

3 MR. WACHTER: No, you guys are asking tough
4 questions.

5 SENATOR KARNETTE: But I think as a Regent, you
6 will have so many things to look at.

7 I really value education. I think all of us
8 obviously do. And if we can educate people who have had the
9 misfortune to break laws, that if they can become educated,
10 they're less likely to do so and become good members of society.
11 And if the universities can help, I think it's really an
12 important service to do.

13 The Distance Learning, in Australia the
14 shepherders used to go to school over the radio, I
15 understand -- I was reading the history of Australia -- and to
16 get their high school diplomas during World War II. It's
17 interesting. They managed; those Australians do okay.

18 MR. WACHTER: They do okay.

19 SENATOR KARNETTE: That's it.

20 SENATOR BRULTE: Move it.

21 CHAIRMAN BURTON: Witnesses from Greenlining who
22 want to express some concerns.

23 MS. GILKERSON: Good morning. My name is
24 Tammeil Gilkerson. I'm the Director of Education Policy at the
25 Greenlining Institute as well as a graduate of UC Berkeley.

26 I'd like to thank the Committee for the
27 opportunity to address you today.

28 The Greenlining Institute is currently opposed to

1 Mr. Wachter's confirmation until he continues to address some of
2 the areas of concern many students and community members have in
3 regards to his qualifications and commitment to this position.
4 These areas of concern were raised for this Committee as well as
5 Mr. Wachter in a letter dated August 13th.

6 While I appreciate the you've addressed some of
7 the issues, I'll go ahead and highlight some of those again for
8 you.

9 In a recent report card issued by Greenlining on
10 UC Regent attendance, half of the current Regents received
11 failing grades. Now, we all know that students who receive
12 failing grades at the University get put on academic probation
13 for a semester, and if they don't improve, then they're asked to
14 leave the University.

15 Should we not hold the same standard for other
16 people in leadership positions at the University?

17 SENATOR JOHNSON: Is there an attendance
18 requirement at the University?

19 MS. GILKERSON: There isn't. I think there
20 should be.

21 SENATOR ROMERO: Actually, Senator Johnson, it
22 depends upon the professor. In classes that I used to teach, I
23 did have an attendance requirement.

24 SENATOR JOHNSON: That was a part of the grade,
25 but it's not a part of the policy of the University of
26 California. A student, in theory, selecting carefully the
27 classes that he or she takes, could never attend a single class
28 so long as they performed the work required.

1 MS. GILKERSON: Certainly, but at the same time,
2 what we've asked of the University is that students and
3 professors and other students work together in collaboration.
4 And that's part of the learning process.

5 SENATOR JOHNSON: What about the professors?
6 What are the requirements of the professors to actually show up
7 at every class?

8 SENATOR ROMERO: Believe me --

9 MS. GILKERSON: There is a requirement for
10 professors. They do get evaluated by students at the end of the
11 year. They get evaluated by their own departments. So, it is a
12 portion --

13 CHAIRMAN BURTON: I thought that most of them had
14 TAs, and they spent their time making money doing research.

15 SENATOR ROMERO: Have you looked at the budget of
16 the CSU lately?

17 MS. SALINAS: Well, as a student at UC Berkeley
18 -- Linda Salinas, a UC Berkeley student.

19 The professors are there, the students are there.
20 Therefore, the leaders of our universities should be there, too,
21 and we shouldn't --

22 CHAIRMAN BURTON: So, I mean, I have been told --
23 I wouldn't know -- but I thought that the vast majority of
24 classes at UC were taught by teaching assistants.

25 MS. GILKERSON: They're actually taught by
26 professors, and the teachers' assistants do the smaller courses
27 off the side. So, we have sessions on the side of it. A larger
28 lecture, and then TAs do the smaller sessions.

1 CHAIRMAN BURTON: Okay.

2 SENATOR ROMERO: And also, the UC does more
3 research.

4 SENATOR JOHNSON: I think we should wait until we
5 have the results of the study that they're going to, as they
6 conducted on the members of the Board of Regents.

7 CHAIRMAN BURTON: That'd work.

8 MS. GILKERSON: Certainly. Be happy to do that.

9 As this Committee is well aware, two years ago
10 you were in the same position to confirm two new Regents. At
11 those hearings, Regent Blum and Regent Saban committed to being
12 active Regents who were committed to diversity and to access.

13 In the last two years they've done little or
14 nothing to promote or protect diversity at the University. In
15 2003, Blum attended only 52 percent of meetings, and Saban only
16 7 seven percent. And in 2004, Saban has yet to attend one
17 meeting.

18 How can we be sure that Mr. Wachter is not going
19 to be another absentee --

20 SENATOR JOHNSON: Because Gray Davis didn't
21 appoint him.

22 [Laughter.]

23 CHAIRMAN BURTON: For what it's worth, Mr. Saban
24 is going to leave the Board of Regents.

25 MS. GILKERSON: We're happy to hear that. But I
26 think that also reflects on the report card we have today, which
27 is that more than half of them are receiving failing grades.
28 So, I don't think it's just an issue of Saban, but I used that

1 as an example.

2 So, thank you very much.

3 We want Mr. Wachter to commit to attending at
4 least 90 percent of all meetings, and if unable to, stepping
5 down similar to Saban.

6 Only four African American males at most will
7 enter UCLA's Fall 2004 Law School class, and even a smaller
8 number will probably enter Boalt Hall. At California's flagship
9 campus, UC Berkeley, the incoming undergraduate student body
10 population will be less than one percent African American males,
11 and many of these are on athletic scholarships.

12 We want to know, Mr. Wachter, where you stand on
13 making sure the University serves all students of this state.
14 We're interested in knowing where you stand on diversity and
15 access, and will you support initiatives such as AB 2387 and a
16 statewide initiative to bring Proposition 209 into conformity
17 with the Supreme Court's pro-diversity decision in the
18 University of Michigan case?

19 We also want to know if you will oppose any
20 changes to enrollment, grade point average, or tuition that has
21 an adverse impact on diversity.

22 And we would hope that you, Mr. Wachter, will
23 think pro-actively and long-term for the development and
24 continued strength of the University by promoting the building
25 of three more campuses in the next -- during your term, your
26 twelve-year term.

27 I highlight only a couple of concerns here today
28 and look forward to hearing your responses to these concerns, as

1 well as those outlined in the August 13th letter.

2 Thank you for your time.

3 CHAIRMAN BURTON: Next, ma'am.

4 MS. SALINAS: Linda Salinas, I'm a third year at
5 UC Berkeley.

6 This is a difficult time, a time when our
7 children have stopped being our state's priority. A time where
8 the goal for equality is a figure of speech, where Regents'
9 meetings are not accessible to students and are held at UCSF 75
10 percent of the time.

11 Well, the time calls for a Regent that has a
12 vision, a vision that realizes the dream of the Master Plan, and
13 will fight with and for the students; a Regent that is dedicated
14 to the mission of our University and will be a strong advocate
15 for access and diversity, and will not allow for our University
16 to become elitist. A Regent that remembers the University of
17 California was made to serve the diverse demographics of the
18 state and realize that it is unfair to raise the eligibility GPA
19 to a 3.1; a University whose dream is to provide a quality
20 education to all students and create a better future for
21 California, because I am tired of empty words with no real
22 action and no real commitment.

23 Thank you.

24 MS. ABASTILLAS: Good morning. My name is Noel
25 Abastillas, and I graduated from UC Berkeley last year. I'm a
26 graduate from UC Berkeley last year with a BA in political
27 science.

28 I've observed over the last few years political

1 and financial attacks on the University of California that
2 threaten its reputation as the preeminent public institution in
3 this country. Most alarmingly, various forces support reneging
4 on the University's long-standing commitment to accept all
5 qualified students.

6 These attacks have gone on in spite of
7 significant victories regarding the importance of diversity in
8 public institutions. Most recently Prop. 54 was resoundingly
9 defeated, and the U.S. Supreme Court decision in the University
10 of Michigan case upheld the importance of seeking a diverse
11 student body.

12 To that end, the University of California needs
13 strong advocates who will make diversity a top priority. We
14 need a Regent who will not only make sure that UC admission
15 policies comply with Prop. 209, but also reflect recent signals
16 sent by the U.S. Supreme Court and the majority of California
17 voters.

18 In summary, I urge the Senate Rules Committee to
19 consider whether Mr. Wachter can effectively advocate for
20 California's truly diverse communities in such an important
21 position.

22 Thank you for your time.

23 MR. HA: Good morning. My name is Vina Ha. I
24 received my BA from UC Berkeley in 1999, my Master's from Cal in
25 2003. In another few years, I will complete my doctorate at UC
26 Berkeley.

27 I'm here today because over my years at UC
28 Berkeley, I've seen my alma mater and the UC system overall

1 become less and less inclusive of minority and low-income
2 students. The so-called fee increases or student taxes of 30
3 percent have become a burden to both my peers at grad school and
4 to the undergraduates in my classroom. These fee increases not
5 only distract students from their school work, but also dissuade
6 potential undergraduate and graduate students from enrolling in
7 a UC.

8 I want to ensure that UC Berkeley and the UC
9 system overall does not become a more exclusive system reserved
10 for those who can most afford the rising cost of attending a
11 UC.

12 I'm here today to ask that the Senate Committee
13 ensure Mr. Wachter's confirmation be approved on the grounds
14 that he take a strong stance against future extreme student fee
15 increases that unduly burden poor and minority students.

16 I want to close with this. I plan to one day
17 teach at a UC campus, but I want to teach and conduct research
18 at an institution that truly reflects the composition of
19 California. I hope the Senate Committee and Mr. Wachter can
20 improve the chances of that happening through your actions
21 today.

22 Thank you.

23 MS. MUNOZ: My name is Lia Munoz. I live in
24 Redlands, California and I attend UC Riverside.

25 Being a UC student, I understand the commitment
26 and the discipline that is necessary in order to be successful.
27 I have seen that consistent attendance results in not just good
28 grades but great accomplishments.

1 It is well known that the goal of education is to
2 develop critical thinkers and problem solvers. This is achieved
3 not by memorizing facts that are written in black and white, but
4 by the interaction of fellow students and professors that
5 analyze, question, debate, and bring forth various
6 possibilities.

7 By this same token, it is not possible for our
8 Regents to give satisfactory consideration to the decisions that
9 they must make without the same attendance that allows for
10 analysis, debate, and question. This cannot be accomplished via
11 e-mail, conference calls, or small group conversation, but
12 requires the participation of all Regents in attendance.

13 I ask that the UC Regents join us in setting the
14 highest standard and showing the best example for UC students
15 through their attendance at Regents meetings.

16 I hope the Senate Committee and Mr. Wachter will
17 insist upon the same type of performance that is expected and
18 met by accomplished UC students.

19 Thank you for your time.

20 CHAIRMAN BURTON: Would you like to comment,
21 please?

22 MR. WACHTER: It's worthy of comment, I just
23 don't know where to start.

24 CHAIRMAN BURTON: At the beginning.

25 MR. WACHTER: Well, I'd say again, the two points
26 that probably jumped out at me I think I addressed in my opening
27 statement, which is that being a successful member of something
28 like the Board of Regents, or the Board of Directors of any

1 institution, requires attendance at meetings, but at least as
2 importantly, requires working between the meetings, and requires
3 committee -- attendance at the committee meetings, and working
4 on the committees because that's where a lot of the real work of
5 any Board of Directors, or any Regents, whatever you call it,
6 gets done.

7 And at the end of the day, if you take on
8 something like this, you have to be prepared to commit to do the
9 work, because just -- to me, showing up at the meeting six times
10 a year is actually pretty easy. Everyone keeps talking about
11 that, but I don't think that's really the hard part. I think
12 the hard part is to really dig in and get into the issues that
13 each Regent is expert at, because I'm not going to be an expert
14 at every issue, but there'll be some that I'll be well qualified
15 to deal with and others that I'll have to learn more about.

16 So, all I can do is commit again that I'm not
17 kidding around about this. I take it very seriously. I
18 understand attendance. I understand committees, and I
19 understand what it means to do something like this, and I don't
20 take it lightly.

21 So, anyone who's worried that I will do what
22 some, I guess, other Regents have done in the past and not ever
23 show up, and not work on this, it's not going to happen.

24 With regard to the other point which is, I guess,
25 diversity, which seemed to be other main point that came out of
26 these comments, obviously as one Regent out of however many
27 there are altogether, 27 or whatever, you can't make all the
28 changes.

1 But I heard some statistics today, and I heard
2 something about African Americans in law school. I heard some
3 statistics yesterday about numbers of African Americans in the
4 entering class at Berkeley, and, you know, obviously when you
5 hear statistics like that it makes you sit up and go, okay, well
6 that's something that obviously somebody needs to take a look
7 at, or everybody needs to take a look at, to understand, is the
8 system set up to create some sort of inequality or some sort of
9 imbalance which leads to some group, or a number of groups, not
10 doing as well in getting in or going to the University of
11 California, which would be bad, obviously, or is there something
12 else at work?

13 I've only been to one meeting, so it certainly
14 seems that there's no -- I certainly couldn't see any
15 intention --

16 SENATOR JOHNSON: So far you have 100 percent
17 attendance.

18 MR. WACHTER: One hundred percent, and all
19 committee meetings.

20 But those are things that need to be looked at.
21 And I, along with the other Regents, would obviously want to
22 look at that because that's not a good thing for anyone.

23 I think anybody who's been through law school, or
24 college, or even high school knows that the quality of your
25 education is about probably 40 percent or so the quality of the
26 teachers, or maybe 50 percent the quality of teachers, but the
27 rest of it is definitely the quality of students that you're
28 with, who they are, what you can learn from them. So, if you

1 have a completely -- as Senator Burton said, you know, if
2 everybody looks like us, and that's the only perspective that
3 you get in a classroom, you're not going to get a lot of
4 perspectives. So, that's very important.

5 I don't have the answers, but I hear the
6 statistics and obviously, that's something I take very
7 seriously.

8 CHAIRMAN BURTON: Do you have any family here to
9 introduce?

10 MR. WACHTER: I don't.

11 CHAIRMAN BURTON: Call the roll.

12 SECRETARY WEBB: Senator Brulte.

13 SENATOR BRULTE: Aye.

14 SECRETARY WEBB: Brulte Aye. Senator Karnette.

15 SENATOR KARNETTE: Aye.

16 SECRETARY WEBB: Karnette Aye. Senator Romero.

17 SENATOR ROMERO: Aye.

18 SECRETARY WEBB: Romero Aye. Senator Johnson.

19 SENATOR JOHNSON: Aye.

20 SECRETARY WEBB: Johnson Aye. Senator Burton.

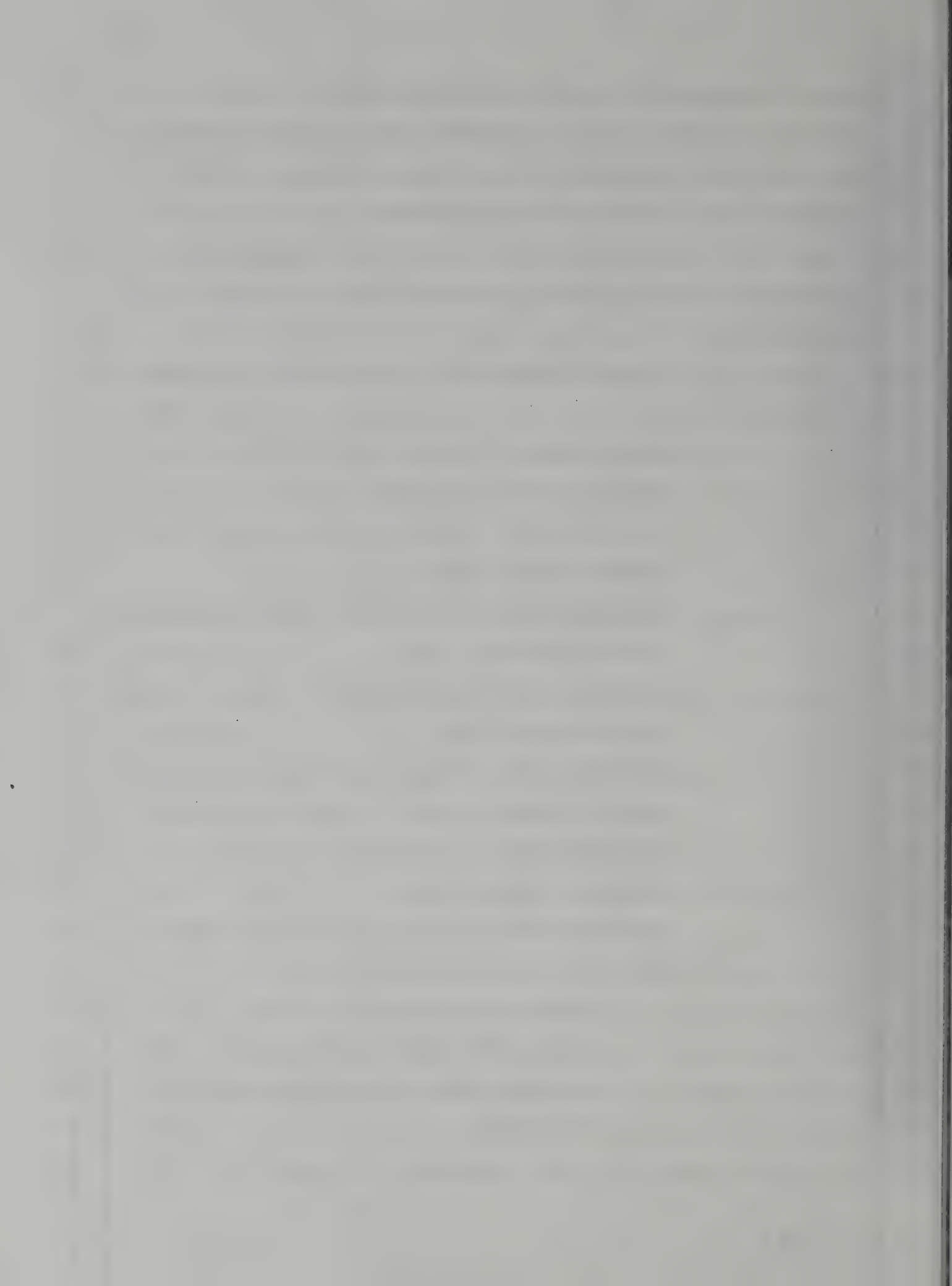
21 CHAIRMAN BURTON: Aye.

22 SECRETARY WEBB: Burton Aye. Five to zero.

23 CHAIRMAN BURTON: Congratulations.

24 [Thereupon this portion of the
25 Senate Rules Committee hearing
26 was terminated at approximately
27 9:44 A.M.]

28 --ooOoo--



CERTIFICATE OF SHORTHAND REPORTER

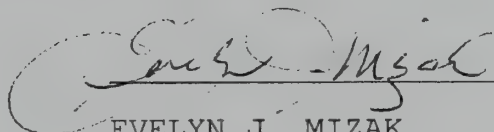
I, EVELYN J. MIZAK, a Shorthand Reporter of the State of California, do hereby certify:

That I am a disinterested person herein; that the foregoing transcript of the Senate Rules Committee hearing was reported verbatim in shorthand by me, Evelyn J. Mizak, and thereafter transcribed into typewriting.

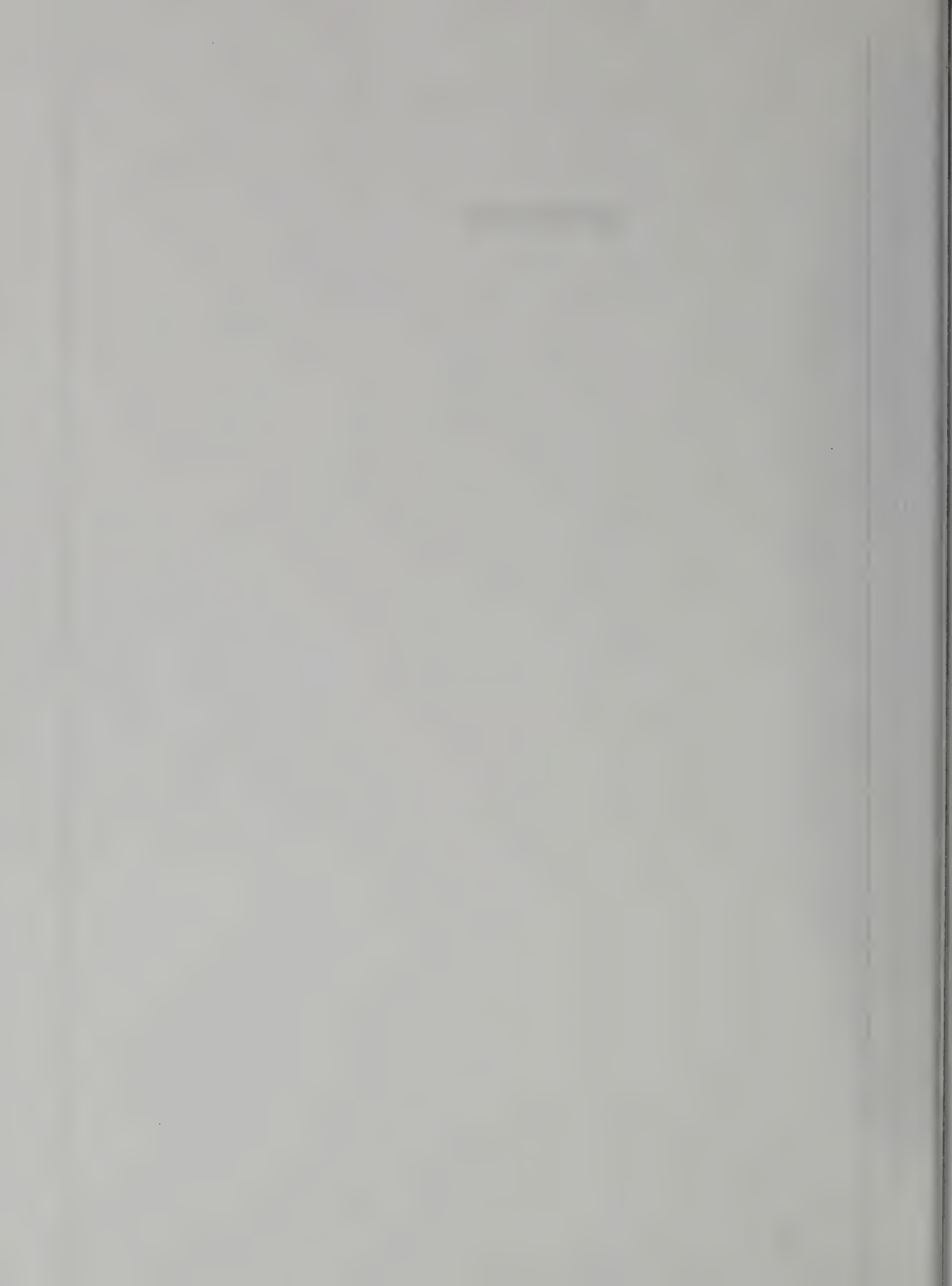
I further certify that I am not of counsel or attorney for any of the parties to said hearing, nor in any way interested in the outcome of said hearing.

IN WITNESS WHEREOF, I have hereunto set my hand this

25th day of August, 2004.


EVELYN J. MIZAK
Shorthand Reporter

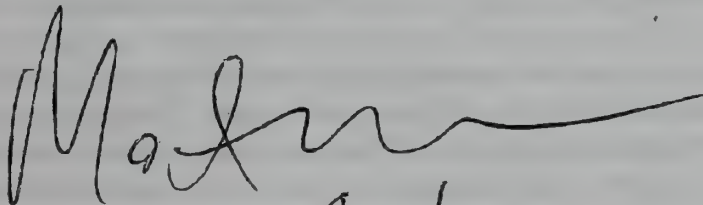
APPENDIX



Statement of Moctesuma Esparza
Nominee to CSU Trustee Board

What do I hope to accomplish during my tenure on the Board of Trustees?

- Preserve and protect the master plan calling for access to the top 1/3 of all California graduating High School seniors to the CSU system.
- Reduce the average time for graduation of students by assuring students receive counseling to focus on required classes to graduate within 4 years as entering Freshmen and 2 years as transferring Juniors.
- Maintain the CSU system tuition fees at the most affordable level possible and to balance any tuition increase with corresponding financial aid on a need basis.
- Support the CSU system to maintain and improve its academic excellence on a national standard.
- Promote equal access to all sectors of our state's population for admission to CSU and to CSU's economic contribution to the State's economy.
- Work with K to 12 schools to promote and achieve academic readiness in Math and Language skills for university level work for all incoming Freshmen.
- Improve system wide budget efficiency to increase salaries of Academic Personnel to parity at comparable colleges and universities throughout the U.S., to maintain competitiveness and quality of CSU system in a national market.
- Work with community colleges to promote transfer programs to CSU by providing student counseling focusing on the selection of classes that will qualify for CSU credit for their major and the adequate offering of classes to achieve transfer in a timely fashion.


8/19/2004

Senate Rules Committee
Opening Statement to the Members by Paul Wachter
Wednesday, August 25, 2004

Good afternoon Senator Burton, Members of the Committee and distinguished guests. I thank you for the invitation to meet with you today and welcome this opportunity to share with you my commitment to the University of California and to the enormous contributions that the University makes every day toward improving the lives of Californians throughout the state.

I am honored by the confidence that Governor Schwarzenegger has placed in me, and I look to earn your trust and support in confirming this appointment as a regent of the University of California.

UC provides access to a world-class education, amazing advances in medical research and quality health care, and workforce development and technological innovations that fuel vital economic growth for our communities as well as maintaining the state's status as a major international competitor. The UC family includes more than 200,000 students, 150,000 faculty and staff and over one million alumni. With your support, I look forward to joining the family as a regent.

I am eager to begin my service, and believe that with my years of professional experience and involvement in education organizations, I can be an asset to the university.

I grew up in New York City and attended a private school and two private universities: the Wharton School of the University of Pennsylvania and Columbia University Law School. That was the way things worked in New York at that time. I promise you, growing up in New York, where there are many good universities in the state—public and private – there was nothing as superb and accessible as the UC system. This is a system where one can get an education on par with any top-flight school in the nation for a fraction of the cost. This is a privilege that Californians enjoy that I will do my utmost to preserve. Coming from outside of this system, I appreciate it as much, or more than many Californians; even when I applied to college in the 70's the UC system was known to be an unparalleled institution, envied globally. What could be more important than preserving this privilege in order to ensure the future of our state as well as our position in the nation and the world?

As the parent of three young children, I understand at a very personal level the need for early opportunity and the value of instilling hope in our children to strive and succeed. Now, more than ever, opportunities for a college education are increasingly vital for their success. When we talk about academic excellence, admissions criteria or student fees, we are ultimately giving expression to the dreams we have for our children's future. As a regent, keeping that promise will be my highest priority. I have to tell you that in working with the Governor, I have learned from him something very interesting and

counter intuitive: I always thought that the measure of the obstacles one faced had mostly to do with money and comfort. While not to downplay those issues, Governor Schwarzenegger pointed out, based on his own experience, that with good parenting and a good education, a solid foundation can be laid for a child even without money. And, of course, the reverse is also true. All the money in the world will not make up for a lack of parenting, education and hard work. In my own case, I am a first generation American child of a refugee from Hitler on one side and a holocaust survivor on the other. My father never went past eighth grade because he first had to work to support his family and then he ran from Hitler after the Anschluss. My parents spoke German at home. My brother was the first and I the second in our family to graduate from college. I was given the gift of a great education and solid, caring parenting. Whatever any of us can do to help provide these same gifts to the children of California is of paramount importance.

I have had the privilege of working with two large education programs – serving on the Board of Directors and the Board of Governors for the California Special Olympics and the Board of Directors of the After-School All-Stars for the past eight years and have been on the executive committees of both.

My time with California's Special Olympics programs has taught me the power that self-esteem and specific goals can have in the lives of people who might otherwise have low expectations. I challenge every one of you to go to a Special Olympics event (bring your kids) and watch the competition and the looks on the faces of the competitors and try not to cry... it's virtually impossible.

The message of the After-School All-Stars is also one of optimism. These youth live in our inner city areas, where social and economic pressures push them toward gangs, drugs and violence. Through the All-Stars' after-school activities – offering positive alternatives to negative forces -- they come to understand that they can escape this web of despair and make changes that will have profound and permanent effects for themselves, their families and their community. Similarly, I see the University of California – its campuses, medical centers, community programs, agricultural offices, extension classes, performing arts centers – as centers of hope.

As a Californian, I am concerned that the gates to our colleges and universities remain open wide to high school students who have demonstrated their abilities and capabilities. As a businessman, I know the importance of balancing the ledger. As a regent, I will fight for the resources -- the institutional commitment -- to keep the University of California affordable for all eligible students.

This is a critical time in the history of the state and the University. But as I have learned from the kids I've worked with – we can turn hard times into opportunities.

As a regent, I hope to bring to the Regents my 20 years of experience in investment banking, finance and management – currently as president and CEO of the Santa Monica-based Main Street Advisors, and before that, as a managing director of two other major Wall Street firms.

It is my professional opinion that the University of California is a smart investment opportunity.

The University of California creates new jobs and new businesses – sometimes even whole industries. An independent study last year estimated that UC will generate more than 2 million jobs in California by the end of this decade.

UC faculty, students and alumni are responsible for hundreds of spin-off companies that make use of university-based technology. These efforts have spurred regional growth in industry clusters throughout the state. The members of this committee know well the difference that a UC campus in Riverside, Irvine, Los Angeles, San Diego makes to the regional economy in your districts. I am very excited about the prospects of serving on the Board of Regents as the Merced campus comes online.

At every UC campus, California benefits from investments in new scientific innovation and technology. Concurrently, UC is training the next generation of scientists, engineers and entrepreneurs to lead California's competitiveness in the key industry clusters that will be responsible for ensuring our growth and prosperity for the next quarter-century. We will need to find the way to enroll more engineering and computer science students, and to retain and recruit world-class faculty to teach them.

UC medical centers and clinics see more than three million outpatient visits every year, a large share of which are uninsured or underinsured. As health care costs escalate and the shortages of doctors, nurses and pharmacists expand as California's population grows, UC's role in caring for patients – not to mention the future service of the 12,000 students being trained at UC's medical and health professional schools each year – will become even more crucial to the economic vitality of our state and the health of California families.

The University of California is an integral part of the everyday lives of all Californians. The future of our diverse communities will be enriched by the investment we make in UC. I look forward to helping UC fulfill its golden promise for our Golden State.

Again, I thank for this opportunity to appear before you today and invite your questions.

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